

SUBPART E
HOME RULE AND OPTIONAL PLAN GOVERNMENT

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CHAPTER 29
GENERAL PROVISIONS

Subchapter

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SUBCHAPTER A
PRELIMINARY PROVISIONS

Sec.

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§ 2901. Short title and scope of subpart.

(a) Short title of subpart.--This subpart shall be known and may be cited as the Home Rule Charter and Optional Plans Law.

(b) Scope of subpart.--This subpart applies to all municipalities except cities of the first class and counties of the first class.

§ 2902. Definitions.

Subject to additional definitions contained in subsequent provisions of this subpart which are applicable to specific provisions of this subpart, the following words and phrases when used in this subpart shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Council." County commissioner, city council, borough council, town council, township commissioner in a township of the first class and supervisor in a township of the second class.

"Election officials." The county boards of elections.

"Electors." The registered voters of any municipality involved

in proceedings relating to the adoption and repeal of optional forms of government.

"Governing body." Board of county commissioners, city council, borough or incorporated town council, commissioners of a township of the first class and supervisors of a township of the second class or their successor forms of government.

"Government study commission" or "commission." The body elected under the provisions of Subchapter B (relating to procedure for adoption of home rule charter or optional plan of government).

"Home rule charter." A written document defining the powers, structure, privileges, rights and duties of the municipal government and limitations thereon. The charter shall also provide for the composition and election of the governing body, which in all cases shall be chosen by popular elections.

"Local municipality." Municipal corporation except a city of the first class.

"Nonresident." Any person or entity not a resident within the meaning of this subpart.

"Optional forms." Includes home rule charters and optional plans.

"Optional plans." Optional municipal powers, procedures and administrative structures as provided by this subpart.

"Rate of taxation." The amount of tax levied by a municipality on a permissible subject of taxation.

"Resident." Any person or other entity living in or maintaining a permanent or fixed place of abode in a municipality or conducting or engaging in a business for profit within a municipality.

"Subject of taxation." Any person, business, corporation, partnership, entity, real property, tangible or intangible personal property, property interest, transaction, occurrence, privilege, transfer, occupation or any other levy which is determined to be taxable by the General Assembly. The term shall not be construed to mean the rate of tax which may be imposed on a permissible subject of taxation.

SUBCHAPTER B

PROCEDURE FOR ADOPTION OF HOME RULE CHARTER OR OPTIONAL PLAN OF GOVERNMENT

Sec.

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Cross References. Subchapter B is referred to in sections 733, 2902, 3094, 3171 of this title.

§ 2911. Submission of question for election of government study commission.

(a) General rule.--Whenever authorized by ordinance of the governing body or upon petition of the electors to the county board of electors of the county wherein the municipality is located, an election shall be held upon one of the following questions:

Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of an optional form of government and to recommend whether or not an optional plan of government should be adopted?

Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of a home rule charter and, if advisable, to draft and to recommend a home rule charter?

Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of an optional form of government or a home rule charter, to recommend the adoption of an optional form of government or to draft and recommend a home rule charter?

(b) Petition for election.--The petition calling for the election shall be in the form required by subsection (e) and shall be signed by electors comprising 5% of the number of electors voting for the office of Governor in the last gubernatorial general election.

(c) Ordinance authorizing election.--Within five days after the final enactment of an ordinance authorizing the election, the municipal clerk or secretary shall file a certified copy of the ordinance with the county board of elections, together with a copy of the question to be submitted to the electors.

(d) Duty of election board.--At the next general or municipal or primary election occurring not less than the 13th Tuesday after the filing of the ordinance or the petition with the county board of elections, it shall cause the appropriate question to be submitted to the electors as other questions are submitted under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(e) Requirements for petitions.--A referendum petition under this section shall be filed not later than the 13th Tuesday prior to the election, and the petition and the proceedings therein

shall be in the manner and subject to the provisions of the election laws which relate to the signing, filing and adjudication of nomination petitions insofar as those provisions are applicable. No referendum petition may be signed or circulated prior to the 20th Tuesday before the election nor later than the 13th Tuesday before the election. No candidate's nomination petition may be signed or circulated prior to the 13th Tuesday before the election nor later than the tenth Tuesday before the election. Any petition under this section shall be filed on or before the tenth Tuesday before the election.

Cross References. Section 2911 is referred to in sections 2923, 2927 of this title.

§ 2912. Election of members of commission.

(a) **General rule.**--A governmental study commission of seven, nine or eleven members, as designated in the question, shall be elected by the qualified voters at the same election the question is submitted to the electors.

(b) **Nomination of candidates.**--Each candidate for the office of member of the commission shall be nominated and placed upon the ballot containing the question in the manner provided by and subject to the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, which relate to the nomination of a candidate nominated by nomination papers filed for other offices elective by the voters. Each candidate shall be nominated and listed without any political designation or slogan, and no nomination paper shall be signed or circulated prior to the 13th Tuesday before the election nor later than the tenth Tuesday before the election. No signature shall be counted unless it bears a date within this period.

(c) **Instructions to electors.**--Each elector shall be instructed to vote on the question and, regardless of the manner of his vote on the question, to vote for the designated number of members of a government study commission who shall serve if the question is or has been determined in the affirmative.

(d) **Insufficient number of candidates or members.**--If an insufficient number of nominating papers is filed to fill all of the designated positions on the study commission, the question of establishing a commission shall be placed on the ballot, and, unless a sufficient number of study commission members are elected by receiving at least as many votes as signatures are required to file a nominating position, then the question of creating a study commission shall be deemed to have been rejected.

§ 2913. Nomination of candidates.

(a) **General rule.**--All candidates for the government study commission shall be electors. Each candidate shall be nominated by nomination papers signed by a number of electors equal at least to 2% of the number of electors voting for the office of Governor in the last gubernatorial general election or 200 electors, whichever is less, and filed with the county board of elections not later than the tenth Tuesday prior to the date of the election.

(b) **Content and signing of nomination papers.**--Each nomination paper shall set forth the name, place of residence and post office address of the candidate thereby nominated, that the nomination is for the office of government study commissioner and that the

signers are legally qualified to vote for the candidate. An elector may not sign nomination papers for more candidates for the commission than he could vote for at the election. Every elector signing a nomination paper shall write his place of residence, post office address and street number, if any, on the petition.

(c) Acceptance by candidate.--Each nomination paper shall, before it may be filed with the county board of elections, contain under oath of the candidate an acceptance of the nomination in writing, signed by the candidate therein nominated, upon or annexed to the paper, or, if the same person be named in more than one paper, upon or annexed to one of the papers. The acceptance shall certify that the candidate is an elector, that the nominee consents to run as a candidate at the election and that, if elected, the candidate agrees to take office and serve.

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

§ 2914. Results of election.

The result of the votes cast for and against the question as to the election of a government study commission shall be returned by the election officers, and a canvass of the election had, as is provided by law in the case of other public questions put to the electors. The votes cast for members of the commission shall be counted and the result returned by the county board of electors, and a canvass of the election had, as is provided by law in the case of election of members of municipal councils or boards. The designated number of candidates receiving the greatest number of votes shall be elected and shall constitute the commission. If a majority of those voting on the question vote against the election of a commission, none of the candidates shall be elected. If two or more candidates for the last seat shall be equal in number of votes, they shall draw lots to determine which one shall be elected.

§ 2915. Oath of office of members of commission.

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

(b) Other members.--As soon as possible and in any event no later than ten days after its certification of election, the members of a government study commission elected on other than a countywide basis shall, before a magisterial district judge, make oath to support the Constitution of the United States and the Constitution of Pennsylvania and to perform the duties of the office with fidelity.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2016 Correction. Incorrect language was carried in the publication of the 2004 amendment of subsec. (b). The correct version of subsec. (b) appears in this publication.

2004 Amendment. Act 207 amended subsec. (b). See sections 28 and 29 of Act 207 in the appendix to this title for special provisions relating to applicability and construction of law.

§ 2916. First meeting of commission.

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

(b) **Quorum.**--A majority of the members of the commission shall constitute a quorum for the transaction of business, but no recommendation of the commission shall have any legal effect unless adopted by a majority of the whole number of the members of the commission.

§ 2917. Vacancies.

In case of a vacancy in the government study commission, the remaining members of the commission shall fill it by appointing thereto some other properly qualified elector.

§ 2918. Function and duty of commission.

The government study commission shall study the form of government of the municipality to compare it with other available forms under the laws of this Commonwealth and determine whether or not in its judgment the government could be strengthened or made more clearly responsible or accountable to the people or whether its operation could become more economical or efficient under a changed form of government.

§ 2919. Compensation and personnel.

(a) **Compensation and expenses of members.**--Members of the government study commission shall serve without compensation, but shall be reimbursed by the municipality for their necessary expenses incurred in the performance of their duties. Council shall appropriate moneys necessary for this purpose.

(b) **Appointment and compensation of personnel.**--Within the limits of the appropriations and other public and privately contributed funds and services made available to it, the commission may appoint one or more consultants and clerical and other assistants to serve at the pleasure of the commission and may fix reasonable compensation therefor to be paid the consultants and clerical and other assistants.

§ 2920. Hearings and public forums.

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

§ 2921. Report of findings and recommendations.

(a) **General rule.**--The government study commission shall report its findings and recommendations to the citizens of the municipality within nine months from the date of its election except that it shall be permitted an additional nine months if it elects to prepare and submit a proposed home rule charter and an additional two months if it chooses to elect its municipal council by districts. It shall publish or cause to be published sufficient

copies of its final report for public study and information and shall deliver to the municipal clerk or secretary sufficient copies of the report to supply it to any interested citizen upon request. If the commission recommends the adoption of a home rule charter or any of the optional plans of government as authorized in this subpart, the report shall contain the complete plans as recommended.

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

(c) Filing copy with Department of Community and Economic Development.--A copy of the final report of the commission with its findings and recommendations shall be filed with the Department of Community and Economic Development.

(d) Disposition of records.--All the records, reports, tapes, minutes of meetings and written discussions of the commission shall, upon its discharge, be turned over to the municipal clerk or secretary for permanent safekeeping and made available for public inspection at any time during regular business hours.
(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended subsec. (c).

Cross References. Section 2921 is referred to in section 2922 of this title.

§ 2922. Discharge of petition and amended reports.

(a) General rule.--The government study commission shall be discharged upon the filing of its report, but, if the commission's recommendations require further procedure in the form of a referendum on the part of the electors, the commission shall not be discharged until the procedure has been finally concluded. At any time prior to 60 days before the date of the referendum, the commission may modify or change any recommendation set forth in the final report by publishing an amended report.

(b) Effect of amended report.--Whenever a commission issues an amended report pursuant to subsection (a), the amended report shall supersede the final report and the final report shall cease to have any legal effect.

(c) Procedure under amended report.--The procedure to be taken under the amended report shall be governed by the provisions of this subpart applicable to the final report of a commission submitted pursuant to section 2921 (relating to report of findings and recommendations).

§ 2923. Types of action recommended.

The government study commission shall report and recommend in accordance with the question presented to the electorate as provided in section 2911 (relating to submission of question for election of government study commission):

(1) That a referendum shall be held to submit to the electors the question of adopting one of the optional plans of government authorized by this subpart to be specified by the commission.

- (2) That a referendum shall be held to submit to the electors the question of adopting a home rule charter as prepared by the commission and as authorized by this subpart.
- (3) That the form of government shall remain unchanged.
- (4) Such other action as it deems advisable consistent with its functions as set forth in this subpart.

§ 2924. Specificity of recommendations.

(a) Optional plan of government.--

(1) If the government study commission report recommends the adoption or the amendment of any of the optional plans of government set forth in this subpart, except the optional county plan, the report of the commission may specify the following:

(i) That the municipal council shall consist of three, five, seven or nine members, except that under the small municipality plan and under the optional county plan the number of council members shall be as provided in sections 3073 (relating to election of council members) and 3092 (relating to county officers).

(ii) That the office of treasurer shall be omitted or that it shall be filled by election by the electors rather than by appointment.

(iii) That the office of controller shall be omitted or that it shall be filled by election by the electors rather than by appointment.

(2) If a commission report, initiative petition or ordinance shall recommend any optional plan, except for the optional county plan, it may specify that the then existing basis for electing council members shall be changed to an at-large or district or combination at-large and district basis.

(3) If a commission report, initiative petition or ordinance recommends the adoption of the council-manager form of government, it may specify that the mayor or president of council or chairman be elected directly by the electors rather than by council.

(4) If a commission report, initiative petition or ordinance for a county recommends the adoption of any of the optional plans, except the optional county plan, it may specify that the sheriff be elected directly by the voters of the county as provided in section 3094 (relating to additional options for election of county sheriff).

(5) In all cases, except for the council-manager plan, the commission report, initiative petition or ordinance shall specify whether the executive (mayor) shall be called "executive" or "mayor."

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

(c) Elections in new or revised districts.--Notwithstanding any other provisions of this subpart, if an approved home rule charter or optional plan of government or other form of government adopted pursuant to the provisions of this subpart specifies that the election of the municipal council shall be on an at-large or district or combination district and at-large basis and the basis

recommended differs from the existing basis and therefore requires eliminating districts or establishing revised or new districts, then election of municipal officials shall not take place on the new basis until the municipal election following the next primary election taking place more than 180 days after the election at which the referendum on the question of a new form of government has been approved by the electorate. The new form of government shall not go into effect until the first Monday in January following the election of municipal officials on the new basis. New or revised districts shall be established by the government study commission and included in the proposed charter.

Cross References. Section 2924 is referred to in sections 2942, 3004, 3052, 3054, 3056, 3073, 3161 of this title.

§ 2925. Form of question on form of government.

The question to be submitted to the voters for the adoption of a home rule charter or any of the optional plans of government authorized by this subpart shall be submitted in one of the following forms or such part of them as shall be applicable.

Shall the Home Rule Charter contained in the report, dated (insert date), of the government study commission, prepared in accordance with the Home Rule Charter and Optional Plans Law, be adopted by the (insert type and name of municipality)?

Shall (insert name of plan), including recommendations pertaining to optional provisions contained in the report of the government study commission, dated (insert date), as authorized by the Home Rule Charter and Optional Plans Law, be adopted by the (insert type and name of municipality)?

Shall the (Home Rule Charter) (Optional Plan) of the (insert type and name of municipality) be repealed and the form of government recommended in the report of the government study commission, dated (insert date), be adopted as authorized by the Home Rule Charter and Optional Plans Law?

Shall an Optional Plan for the (insert type and name of municipality) be amended as specified in the report of the government study commission filed with the election officials of the County of (insert name of county), on (insert date), as authorized by the Home Rule Charter and Optional Plans Law?

Cross References. Section 2925 is referred to in section 2926 of this title.

§ 2926. Submission of question on form of government.

If the government study commission recommends that the question of adopting a home rule charter or one of the optional plans of government authorized by this subpart shall be submitted to the electors, the municipal clerk or secretary shall, within five days thereafter, certify a copy of the commission's report to the county board of elections, which shall cause the question of adoption or rejection to be placed upon the ballot or voting machines at the time as the commission specifies in its report. The commission may cause the question to be submitted to the electors at the next primary, municipal or general election occurring not less than 60 days following the filing of a copy of the commission's report with the county board of elections, at the time the commission's report directs. At the election, the

question of adopting that form of government recommended by the commission shall be submitted to the electors by the county board of elections in the same manner as other questions are submitted to the electors under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. The commission shall frame the question to be placed upon the ballot as provided for in section 2925 (relating to form of question on form of government) and, if it deems appropriate, an interpretative statement to accompany the question.

§ 2927. Limitation on enactment of ordinance or filing of petition.

(a) **General rule.**--An ordinance may not be passed and a petition may not be filed for the election of a government study commission pursuant to section 2911 (relating to submission of question for election of government study commission) while proceedings are pending under any other petition or ordinance filed or passed under the authority of this subpart nor on the same question if it has been defeated within four years after an election has been held pursuant to any such ordinance or petition passed or filed.

(b) **Time for commencement of proceedings.**--For the purpose of this section, proceedings shall be considered as having started:

(1) In the case of an ordinance, upon the final vote of council in favor of the ordinance, notwithstanding the fact that the ordinance cannot take effect until a certain number of days thereafter.

(2) In the case of a petition, as soon as it is properly signed by one-third of the number of registered voters required for the petition and written notice thereof filed in the office of the county board of elections and in the office of the municipal clerk or secretary, who shall cause the notice to be immediately posted in a conspicuous place in the office, open to public inspection.

§ 2928. Time when change of form of government takes effect.

Whenever the electors by a majority of those voting on the question vote in favor of adopting a change in their form of government pursuant to this subpart, the proposed form shall take effect according to its terms and the provisions of this subpart.

§ 2929. Limitation on changing new form of government.

The voters of any municipality which has adopted a home rule charter or an optional plan of government pursuant to this subpart may not vote on the question of changing the form of government until five years after the home rule charter or optional plan became effective.

§ 2930. Status of forms of government provided in subpart.

For the purposes of this subpart, each of the optional forms of government provided by this subpart and each of those optional forms as modified by any available provisions concerning size of council, election of municipal officials and the basis for electing councilmen is hereby declared to be a complete and separate form of government provided by the General Assembly for submission to the electors.

SUBCHAPTER C

AMENDMENT OF EXISTING CHARTER OR OPTIONAL PLAN

Sec.

- 2941. Procedure for amendment of charter or optional plan.
- 2942. Initiation of amendment by electors or council.
- 2943. Petition for referendum or ordinance proposing amendment.
- 2944. Time and manner of submission of question.

Cross References. Subchapter C is referred to in section 735.1 of this title.

§ 2941. Procedure for amendment of charter or optional plan.

(a) Procedure.--The procedure for amending a home rule charter or optional plan of government shall be through the initiative procedure and referendum or ordinance of the governing body as provided for in this subpart.

(b) Changes in method of election.--Changes in the method of election of a municipal governing body from at-large elections to elections by district, maintain at-large elections or a combination of at-large elections and elections by district may be implemented by amending a home rule charter or optional plan without creation of a government study commission.

(c) Conflict in the question.--If two or more questions appear on the ballot at the same election and such questions are in conflict and more than one receives the approval of the voters, the question which receives the largest number of affirmative votes shall prevail over the others.

(d) Initial apportionment.--If the referendum on the question results in the approval by the voters to amend the home rule charter or optional plan to provide for the election of the governing body either by districts or partially by districts and partially at large or in a change in the number of members of the governing body, the initial apportionment of the districts shall be made as follows:

(1) Except as provided in paragraph (2), by an apportionment commission consisting of seven members, all of whom shall reside in the municipality. Two members of the apportionment commission shall be appointed by the mayor. Two members of the apportionment commission shall be appointed by the governing body, one shall be appointed by the mayor from a list of at least three qualified persons recommended by the municipal committee of the political party whose mayoral candidate received the highest number of votes cast in the most recent mayoral election and one shall be appointed by the mayor from a list of at least three qualified persons recommended by the municipal committee of the political party whose mayoral candidate received the second highest votes in the most recent mayoral election. The seventh member of the commission shall be elected at large by a majority vote of the other six members and shall serve as chairperson of the commission.

(2) At the option of a municipality with a mayor, or for a municipality without a mayor, the initial apportionment shall be made by the members of the governing body of the municipality consistent with section 903 (relating to reapportionment by governing body).

(e) Subsequent apportionment.--For any municipality, including

a municipality with a mayor, a subsequent apportionment shall be under Chapter 9 (relating to municipal reapportionment).
(Oct. 30, 2017, P.L.1140, No.53, eff. 60 days)

2017 Amendment. Act 53 amended subsec. (d) and added subsec. (e).

§ 2942. Initiation of amendment by electors or council.

A referendum on the question of amendment of a home rule charter or an optional plan of government may be initiated by petition of the electors or such a referendum 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 2924 (relating to specificity of recommendations).

Cross References. Section 2942 is referred to in sections 3004, 3054, 3056, 3073, 3094, 3163, 3171 of this title.

§ 2943. Petition for referendum or ordinance proposing amendment.

(a) Filing.--A petition containing a proposal for referendum on the question of amending a home rule charter or an optional plan of government signed by electors comprising 10% 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 a home rule charter or an optional plan shall be filed with the election officials not later than the 13th Tuesday prior to the next primary, municipal or general election. The petition and the proceedings therein shall be in the manner and subject to the provisions of the election laws which relate to the signing, filing and adjudication of nomination petitions insofar as such provisions are applicable, except that no referendum petition shall be signed or circulated prior to the 20th Tuesday before the election nor later than the 13th Tuesday before the election. The name and address of the person filing the petition shall be clearly stated on the petition.

(b) Review and disposition of petition.--The election officials shall review the initiative petition as to 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 and to the Department of Community and Economic Development. 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.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended subsec. (b).

Cross References. Section 2943 is referred to in sections 3004, 3054, 3056, 3073, 3094, 3163, 3171 of this title.

§ 2944. Time and manner of submission of question.

A referendum on the question of the amendment of a home rule charter or an optional plan of government shall be held when the election officials find that the initiative petition or ordinance

of the governing body is in proper order. The referendum shall be governed by the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. The election officials shall cause the question to be submitted to the electors at the next primary, general or municipal election occurring not less than the 13th Tuesday following the filing of the initiative petition or ordinance with county board of elections. At the election, the question shall be submitted to the voters in the same manner as other questions are submitted under the Pennsylvania Election Code. The county board of elections shall frame the question to be placed upon the ballot.

Cross References. Section 2944 is referred to in sections 3004, 3054, 3056, 3073, 3094, 3163, 3171 of this title.

SUBCHAPTER D

CONDUCT OF ELECTION

Sec.

2951. Conduct and results of election.

2952. Notice of election.

§ 2951. Conduct and results of election.

All elections provided for in this subpart shall be conducted by the election officials for such municipality in accordance with the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. The election officials shall count the votes cast and make return thereof to the county board of elections. The results of the election shall be computed by the county board of elections in the same manner as is provided by law for the computation of similar returns. Certificates of the results of the election shall be filed by the county board of elections with the municipal council or board, the Department of State and the Department of Community and Economic Development. (May 5, 1998, P.L.301, No.50, eff. 60 days)

§ 2952. Notice of election.

At least 30 days' notice of each election provided for under this subpart shall be given by the clerk or secretary of the municipality. A copy of the notice shall be posted at each polling place on the day of the election and shall be published in at least one newspaper of general circulation in the municipality once a week for three consecutive weeks during the period of 30 days prior to the election.

SUBCHAPTER E

GENERAL POWERS AND LIMITATIONS OF HOME RULE CHARTER MUNICIPALITIES

Sec.

2961. Scope of powers of home rule.

2962. Limitation on municipal powers.

2963. Exercise of municipal powers by home rule county.

2964. General powers of municipalities.

2965. Recording and filing of charter.

2966. Continuation of office of existing elective officials.

2967. Repeal of home rule charter.

§ 2961. Scope of powers of home rule.

A municipality which has adopted a home rule charter may exercise any powers and perform any function not denied by the Constitution of Pennsylvania, by statute or by its home rule charter. All grants of municipal power to municipalities governed by a home rule charter under this subchapter, whether in the form of specific enumeration or general terms, shall be liberally construed in favor of the municipality.

§ 2962. Limitation on municipal powers.

(a) Powers granted by statute.--With respect to the following subjects, the home rule charter shall not give any power or authority to the municipality contrary to or in limitation or enlargement of powers granted by statutes which are applicable to a class or classes of municipalities:

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

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

(3) Boundary changes.

(4) Regulation of public schools.

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

(6) The fixing of subjects of taxation.

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

(8) The assessment of real or personal property and persons for taxation purposes.

(9) Defining or providing for the punishment of any felony or misdemeanor.

(10) Municipal planning under the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

(11) The procedure for the filling of vacancies in the office of district attorney.

(b) Taxing power.--Unless prohibited by the Constitution of Pennsylvania, the provisions of this subpart or any other statute or its home rule charter, a municipality which has adopted a home rule charter shall have the power and authority to enact and enforce local tax ordinances upon any subject of taxation granted by statute to the class of municipality of which it would be a member but for the adoption of a home rule charter at any rate of taxation determined by the governing body. No home rule municipality shall establish or levy a rate of taxation upon nonresidents which is greater than the rate which a municipality would have been authorized to levy on nonresidents but for the adoption of a home rule charter. The governing body shall not be subject to any limitation on the rates of taxation imposed upon residents.

(c) Prohibited powers.--A municipality shall not:

(1) Engage in any proprietary or private business except as authorized by statute.

(2) Exercise powers contrary to or in limitation or enlargement of powers granted by statutes which are applicable in every part of this Commonwealth.

(3) Be authorized to diminish the rights or privileges of any former municipal employee entitled to benefits or any present municipal employee in his pension or retirement system.

(4) Enact or promulgate any ordinance or regulation with respect to definitions, sanitation, safety, health, standards of identity or labeling pertaining to the manufacture, processing, storage, distribution and sale of any foods, goods or services subject to any Commonwealth statutes and regulations unless the municipal ordinance or regulation is uniform in all respects with the Commonwealth statutes and regulations thereunder. This paragraph does not affect the power of any municipality to enact and enforce ordinances relating to building codes or any other safety, sanitation or health regulation pertaining thereto.

(5) Enact any provision inconsistent with any statute heretofore enacted prior to April 13, 1972, affecting the rights, benefits or working conditions of any employee of a political subdivision of this Commonwealth.

(d) Reduction of police force.--Notwithstanding any provision of this subpart or any other statute to the contrary, any municipality that is or was a city of the second class A may reduce its police force or its firefighting force for economic reasons, as determined by ordinance.

(e) Statutes of general application.--Statutes that are uniform and applicable in every part of this Commonwealth shall remain in effect and shall not be changed or modified by this subpart. Statutes shall supersede any municipal ordinance or resolution on the same subject.

(f) Regulation of business and employment.--A municipality which adopts a home rule charter shall not determine duties, responsibilities or requirements placed upon businesses, occupations and employers, including the duty to withhold, remit or report taxes or penalties levied or imposed upon them or upon persons in their employment, except as expressly provided by statutes which are applicable in every part of this Commonwealth or which are applicable to all municipalities or to a class or classes of municipalities. This subsection shall not be construed as a limitation in fixing rates of taxation on permissible subjects of taxation.

(g) Regulation of firearms.--A municipality shall not enact any ordinance or take any other action dealing with the regulation of the transfer, ownership, transportation or possession of firearms.

(h) Levying taxes.--This section does not limit or take away any right of a municipality which adopts a home rule charter from levying any tax which it had the power to levy had it not adopted a home rule charter.

(i) Establishment of rates of taxation.--No provision of this subpart or any other statute shall limit a municipality which adopts a home rule charter from establishing its own rates of taxation upon all authorized subjects of taxation except those specified in subsection (a) (7).

(j) Retroactive fee increase prohibited.--A municipality which

adopts a home rule charter may not retroactively increase any fee or charge for any municipal service which has been provided.
(Mar. 23, 2021, P.L.35, No.9, eff. imd.)

2021 Amendment. Act 9 added subsec. (a)(11). Section 2 of Act 9 provided that the addition of subsec. (a)(11) is intended to preempt and supersede any contrary provision in a county home rule charter, ordinance or local administrative code.

§ 2963. Exercise of municipal powers by home rule county.

A county which has adopted a home rule charter shall not at any time thereafter exercise within any municipality in the county a power or function being exercised by that municipality, except under all of the following conditions:

(1) The exercise of such power or function by the county shall be authorized by ordinance of the governing body of the county, which ordinance, in addition to such other filings as may be required by law, shall be filed with the clerk or secretary of each local municipality within the county within 30 days of its enactment.

(2) The transfer of a power or function to the county from any local municipality within the county, as authorized by the ordinance, shall not become effective for at least 15 months from the date of adoption of the ordinance.

(3) Within 120 days from the adoption of the ordinance, the governing body of any local municipality, exercising on the date of the adoption of the ordinance any power or function authorized by ordinance of the county to be exercised by the county, may elect by ordinance to be excluded from the county's exercise of the power or function. Within 60 days after the date of adoption by the governing body of a local municipality of an ordinance excluding the local municipality from the exercise by the county of a power or function or in the absence of any action of the governing body, the qualified electors of the local municipality may initiate a petition requiring that the question of inclusion or exclusion from the exercise of the power or function by the county be submitted to a referendum of the electorate at the election held on the date of the next ensuing primary, municipal or general election not less than 60 days after the filing of the initiative petition with the county board of elections. The initiative and referendum procedures set forth in this subchapter or Subchapter F (relating to general provisions and limitations for optional plan municipalities) shall be followed, except where the same may be inconsistent with any of the provisions of this section. In the event the county determines there is insufficient interest or that it is not feasible to establish the proposed municipal function or power as provided for in the ordinance passed by the county, the county may repeal the county ordinance prior to the effective date of the ordinance.

(4) The governing body of any local municipality may by ordinance, subsequent to the time limit for action as set forth in paragraph (3), request the county to be included in a municipal power or function being exercised by the county. However, the county may specify the terms and conditions for acceptance or denial of the power or function requested by the

local municipality to be exercised by the county, which shall be subject to court review if the local municipality determines that the terms and conditions as set forth by the county are unreasonable.

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

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

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

§ 2964. General powers of municipalities.

Municipalities adopting a home rule charter shall have the power to:

- (1) Sue and be sued.
- (2) Have a corporate seal.
- (3) Contract and be contracted with.
- (4) Buy, sell, lease, hold and dispose of real and personal property.
- (5) Appropriate and expend moneys.
- (6) Adopt, amend and repeal any ordinances and resolutions as may be required.

§ 2965. Recording and filing of charter.

The municipal clerk or secretary shall have the new charter as approved by the qualified electors recorded in the ordinance books and shall also file a certified copy of the charter with the Department of State, the Department of Community and Economic Development and the county board of elections.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

§ 2966. Continuation of office of existing elective officials.

All elective officials in office at the time of the adoption of a home rule charter shall continue in office until their terms expire.

§ 2967. Repeal of home rule charter.

(a) **General rule.**--The procedure for repeal of a home rule charter shall be the same as for adoption of a home rule charter. Whenever the electors, by a majority vote of those voting on the question, vote in favor of repeal of a home rule charter and the establishment of a particular form of government, the municipality shall be governed under the form of government selected by the electors from the first Monday of January following the municipal election at which the elective officials of the form of government selected by the electors shall have been elected. The government study commission shall provide in its report for the new form of

government to be established.

(b) Election of new officials.--The elective officials under a new form of government selected by the electors shall be elected at the first municipal election held after the referendum on the repeal of a home rule charter or at a later date as may be specified by the commission in its report.

SUBCHAPTER F

GENERAL PROVISIONS AND LIMITATIONS FOR OPTIONAL PLAN MUNICIPALITIES

Sec.

- 2971. Law applicable to optional plan.
- 2972. Recording and filing of plan.
- 2973. Scope of powers of optional plan.
- 2974. Limitation on powers of optional plan.

Cross References. Subchapter F is referred to in sections 2963, 3001, 3031, 3041, 3051, 3071, 3091, 3095 of this title.

§ 2971. Law applicable to optional plan.

Upon the adoption by the electors of any of the optional plans of government as set forth in this subpart, the municipality shall thereafter be governed by the plan adopted and by the provisions of general law applicable to that class or classes of municipality except as otherwise provided in this subpart. Until the municipality adopts another form of government, the plan adopted and the provisions of general law applicable to that class or classes of municipality shall be law. All statutes affecting the organization, government and powers of the municipality which are not inconsistent or in conflict with this subpart shall remain in full force until modified or repealed.

§ 2972. Recording and filing of plan.

The municipal clerk or secretary shall immediately cause the new plan of government as adopted to be recorded in the ordinance book of the municipality and shall also file a certified copy thereof with the Department of State, the Secretary of Community and Economic Development and the county board of elections.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

§ 2973. Scope of powers of optional plan.

The general grant of municipal power under this subpart is intended to confer the greatest power of self government consistent with the Constitution of Pennsylvania and with the provisions of and the limitations prescribed by this subpart. Any specific enumeration of municipal powers contained in this subpart or in other statutes does not limit the general description of power contained in this subpart. Any specifically enumerated municipal powers are in addition and supplementary to the powers conferred in general terms by this subchapter. All grants of municipal power to municipalities governed by an optional plan under this subpart, whether in the form of specific enumeration or general terms, shall be liberally construed in favor of the municipality.

§ 2974. Limitation on powers of optional plan.

The optional plan of any municipality adopted in accordance

with this subpart shall not give any power or authority to diminish any rights or privileges of any present municipal employee in his pension or retirement system. No municipality shall exercise any powers or authority beyond the municipal limits except those conferred by statute, and no municipality shall engage in any proprietary or private business except as authorized by the General Assembly.

SUBCHAPTER G

MISCELLANEOUS PROVISIONS

Sec.

- 2981. Limitation on local municipality.
- 2982. Retention of existing form of government.
- 2983. Retention of existing form of government when electors disapprove proposal.
- 2984. Assumption of functions previously assumed by other municipality.

§ 2981. Limitation on local municipality.

No local municipality within a county shall supersede or exercise any power, function or service presently exercised by the county.

§ 2982. Retention of existing form of government.

Each municipality which does not adopt a home rule charter or an optional plan under this subpart shall retain its existing form of government as otherwise provided by law.

§ 2983. Retention of existing form of government when electors disapprove proposal.

In case the electors of any municipality disapprove a proposal to adopt a home rule charter or an optional plan of government, the municipality shall retain its existing form of government.

§ 2984. Assumption of functions previously assumed by other municipality.

(a) **Assumption of indebtedness.**--A municipality assuming a function previously performed by another municipality under the terms of this subchapter shall also assume all the indebtedness and obligations of the municipality relating to the function. If property, indebtedness or obligations of another municipality not within the boundaries of the municipality assuming the function is involved, the governing bodies of the respective municipalities shall make an adjustment and apportionment of all public property involved.

(b) **Procedure for adjustment and apportionment.**--The adjustment and apportionment shall be reduced to a written agreement which shall be filed with the court of common pleas of the county and the Department of Community and Economic Development.

(c) **Petition for adjustment and apportionment.**--In case the municipalities cannot make an amicable adjustment and apportionment of the property, obligations and indebtedness within six months after the function is assumed, any of the municipalities may present a petition to the court of common pleas. The court shall then appoint three disinterested commissioners, all residents and taxpayers of the county, but none

residing in or owners of real property in any of the municipalities. After hearing, notice of which shall be given to the municipalities as the court shall direct, the commissioners shall file a report with the court making an adjustment and apportionment of all the property as well as the obligations or indebtedness. The report shall state the amount that shall be due and payable from each municipality, the forms of payment and the amount of obligations and indebtedness that shall be assumed by each.

(d) Notice to municipalities.--The commissioners shall give the municipalities at least five days' written notice of the filing of their report. Unless exceptions are filed to the report within 30 days after the date of the filing, the report shall be confirmed by the court absolutely. Any sum awarded by the report shall be a legal and valid claim in its favor against the municipality charged. Any real or personal property given to a municipality shall become its property. Any claim or indebtedness charged against the municipality may be collected from it.

(e) Exceptions to report.--If exceptions are filed to the report of the commissioners, the court shall dispose of them, taking testimony if it deems advisable. The court shall enter its decree confirming the award of the commissioners or modifying the same as appears just and proper.

(f) Compensation to commissioners.--The commissioners shall be allowed any compensation and expenses for their services as the court shall fix. The costs of the proceedings, including the compensation and expenses of the commissioners, shall be apportioned by the court between the municipalities as it deems proper.

(g) Jurisdiction of court.--If a municipality or part of a municipality is located in two or more counties, the court of common pleas of the county where the larger part of the municipality assuming the function is located shall have exclusive jurisdiction over the proceedings.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended subsec. (b).