

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1184 Session of 2021

INTRODUCED BY MOUL, JAMES, KNOWLES, FREEMAN AND SAPPEY, APRIL 15, 2021

SENATOR DUSH, LOCAL GOVERNMENT, IN SENATE, AS AMENDED, APRIL 4, 2022

AN ACT

1 Amending Title 8 (Boroughs and Incorporated Towns) of the
2 Pennsylvania Consolidated Statutes, in creation and
3 alteration, further providing for definitions, for contiguous
4 areas, for applications, for borough advisory committee, for
5 adjustment of indebtedness, for judicial adjustment, for
6 judicial adjustment award proceedings, for compensation,
7 expenses and costs, for territory located in multiple
8 counties and for bond issues and taxation; in associations
9 and organizations, further providing for associations and
10 organizations for mayors; in elections of officers, further
11 providing for eligibility; in powers, duties and rights of
12 appointed officers and employees, further providing for
13 appointments and incompatible offices and for police serving
14 under cooperative agreement or contract; in corporate powers,
15 further providing for specific powers; in taxation and
16 finance, further providing for investment of funds; providing
17 for solid waste collection and disposition; and, in
18 ordinances, further providing for ordinances and resolutions
19 and for publication.

20 The General Assembly of the Commonwealth of Pennsylvania

21 hereby enacts as follows:

22 Section 1. ~~Section 200~~ SECTIONS 200, 201, 202, 202.1, 213, <--
23 214, 215, 217, 218, 219, 704(A) AND (B), 801(A), 1104(C),
24 1122(A) AND 1202(8) of Title 8 of the Pennsylvania Consolidated
25 Statutes, ~~amended June 5, 2020 (P.L.211, No.28), is~~ are amended <--

1 to read:

2 § 200. Definitions.

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

6 "Committee." A borough advisory committee.

7 "Freeholder." A person enjoying a continuous right of
8 ownership and possession of real property for an indeterminate
9 period by fee simple or life estate.

10 ["Township." A township of the first or second class or any
11 home rule township.]

12 "Municipality." A city, incorporated town, township, home
13 rule municipality, optional plan municipality, optional charter
14 municipality or similar general purpose unit of government which
15 may be created or authorized by statute.

16 ~~Section 2. Sections 201, 202, 202.1 and 213 of Title 8 are~~ <--
17 ~~amended to read:~~

18 § 201. Contiguous areas.

19 A court of common pleas may incorporate as a borough any
20 contiguous area from one or more [townships] municipalities
21 within the court's jurisdiction having a population of at least
22 500 residents. After having been incorporated as a borough, the
23 area shall be a body corporate and politic and shall have the
24 name decreed by the court.

25 § 202. Applications.

26 (a) Petition.--The following shall apply:

27 (1) The application for incorporation shall be by a
28 petition signed by a majority of the freeholders residing
29 within the limits of the proposed borough and by the
30 freeholders of a majority of the territory within the limits

1 of the proposed borough, if all parts of the proposed borough
2 are in the same [township] municipality.

3 (2) If portions of the proposed borough are in different
4 [townships] municipalities, the petition shall be signed by a
5 majority of the freeholders residing in each of the separate
6 portions and by the freeholders of a majority of the
7 territory in each of the separate portions. The following
8 shall apply:

9 (i) The signatures must be secured within three
10 months immediately preceding the presentation of the
11 signatures to the court.

12 (ii) The petition shall be subscribed by and sworn
13 to by at least one of the signers.

14 (iii) The number of signers required to sign the
15 petition shall be ascertained as of the date the petition
16 was presented to court.

17 (b) (Reserved).

18 (c) (Reserved).

19 (d) (Reserved).

20 (e) Filing and notice.--Upon presentation to the court, a
21 petition shall be filed with the clerk of court, and notice of
22 the petition shall be published under section 109 (relating to
23 publication of notices) once a week for four consecutive weeks
24 immediately following the filing of the petition, during which
25 time exceptions may be filed to the petition by any person
26 interested. The notice shall state when and where the petition
27 was filed and the time during which exceptions may be filed to
28 the petition.

29 (f) Contents of petition.--The petition under subsection (e)
30 shall indicate the name of the proposed borough with a

1 particular description of the boundaries of the borough and be
2 accompanied with a plot of the proposed borough. The following
3 shall apply:

4 (1) If the boundaries of the proposed borough are not
5 the same as an existing [township] municipality, the
6 description shall contain the courses and distances of the
7 boundaries.

8 (2) If the boundaries of the proposed borough are the
9 same as an existing [township] municipality, the description:

10 (i) may contain the courses and distances of the
11 boundaries; and

12 (ii) shall refer to the name and location of the
13 existing [township] municipality.

14 § 202.1. Borough advisory committee.

15 (a) Establishment.--The court shall establish a borough
16 advisory committee when a petition is received by the court for
17 the creation of a borough. The following shall apply to
18 committee members:

19 (1) Members shall be appointed by and shall serve at the
20 pleasure of the court.

21 (2) The committee shall consist of the following:

22 (i) Two residents of the proposed borough.

23 (ii) Two residents from each of the existing
24 [townships] municipalities recommended by the respective
25 governing body of the [township] municipality who are not
26 residing within the proposed borough.

27 (iii) One resident of the county not residing in any
28 area under subparagraphs (i) and (ii) OR, IN THE EVENT <--
29 THAT NO AREA OF THE COUNTY EXISTS OTHER THAN AREAS UNDER
30 SUBPARAGRAPHS (I) AND (II), A RESIDENT OF AN ADJACENT

1 COUNTY, who shall serve as the chair of the committee.

2 (3) Members shall serve without salary. The court may
3 entitle each member to reimbursement for the member's actual
4 and necessary expenses incurred in the performance of the
5 member's official duties.

6 (4) Members may consult with the director of the county
7 planning commission who may advise the committee.

8 (b) Duties.--The committee shall, within 60 days of its
9 creation, advise the court in relation to the establishment of
10 the proposed borough. The committee shall render expert advice
11 and findings of fact relating to the desirability of an
12 incorporation, including advice as to:

13 (1) The proposed borough's ability to obtain or provide
14 adequate and reasonable community support services such as
15 police protection, fire protection and other appropriate
16 community facility services.

17 (2) Whether the proposed borough constitutes a
18 harmonious whole with common interests and needs that can
19 best be served by a borough government. In examining this
20 factor, the committee shall consider whether the proposed
21 borough represents a distinct community with features
22 different from those of the existing [township] municipality.

23 (3) The existing and potential commercial, residential
24 and industrial development of the proposed borough.

25 (4) Whether the proposed borough would provide for land
26 use regulations to meet the legitimate needs for all
27 categories of residents or whether the plan is exclusionary
28 or would result in economic segregation.

29 (5) The financial or tax effect on the proposed borough
30 and existing [township] municipality.

1 § 213. Adjustment of indebtedness.

2 (a) Property.--The following shall apply:

3 (1) After the election of a council under section 211
4 (relating to temporary preservation, organization and
5 election of officers) when a borough is newly incorporated,
6 the council and the governing body of the [township]
7 municipality from which the borough was created shall make an
8 equitable adjustment and apportionment of all the public real
9 and personal property owned by the [township] municipality at
10 the time of the incorporation of the borough.

11 (2) Except as provided under paragraph (3), the property
12 under paragraph (1) shall include funds and indebtedness.

13 (3) If adjusting property and indebtedness under
14 paragraph (1), streets, sewers and utilities may not be
15 considered except to the extent that current and unpaid
16 indebtedness was incurred for the construction and
17 improvement of the property.

18 (b) Proportion.--In making the adjustment and apportionment
19 under subsection (a), the following shall apply:

20 (1) The borough shall be entitled to a division of the
21 property and indebtedness in the same proportion that the
22 assessed valuation of the taxable real estate included within
23 the territorial limits of the newly incorporated borough
24 bears to the assessed valuation of the taxable real estate in
25 the entire [township] municipality immediately prior to the
26 incorporation of the borough. The [township] municipality
27 shall be entitled to the remainder of the property and
28 indebtedness.

29 (2) If indebtedness was incurred by the [township]
30 municipality for an improvement located wholly within the

1 territorial limits of the newly incorporated borough, the
2 indebtedness shall be assumed by the borough.

3 (3) If only part of the improvement is located within
4 the newly incorporated borough, the part of the indebtedness
5 representing the part of the improvement located within the
6 borough shall be assumed by the borough, and the adjustment
7 and apportionment of any remaining debt shall be retained by
8 the [township] municipality.

9 (c) Form.--The adjustment and apportionment made under this
10 section must meet all of the following:

11 (1) Be in writing and duly executed and acknowledged by
12 the secretary or clerk of the [township] municipality and the
13 secretary of the borough.

14 (2) Be filed in the office of the clerk of the court of
15 common pleas of the county.

16 (3) Be filed as a copy with the Department of Community
17 and Economic Development.

18 ~~Section 3. Section 214 of Title 8, amended June 5, 2020~~ <--
19 ~~(P.L.211, No.28), is amended to read:~~

20 § 214. Judicial adjustment.

21 (a) Petition.--If the governing bodies of the [township]
22 municipality and the borough cannot make an amicable adjustment
23 and apportionment of the property and indebtedness within six
24 months after the government of the newly incorporated borough is
25 established, the [supervisors or commissioners] GOVERNING BODY <--
26 of the [township] municipality or the council of the borough may
27 present a petition to the court of common pleas requesting a
28 judicial adjustment.

29 (b) Appointment.--[After] EXCEPT AS PROVIDED IN SUBSECTION <--
30 (B.1), AFTER receiving a petition under subsection (a), the

1 court shall appoint three disinterested commissioners who meet
2 all of the following requirements:

3 (1) Are residents and taxpayers of the county.

4 (2) Are not residents of or own real estate in the
5 [township] municipality or borough.

6 (B.1) ALTERNATIVE APPOINTMENT.--IF NO RESIDENT CAN BE <--
7 APPOINTED BY THE COURT UNDER SUBSECTION (B), THE COURT SHALL
8 APPOINT THREE DISINTERESTED COMMISSIONERS WHO MEET ALL OF THE
9 FOLLOWING REQUIREMENTS:

10 (1) ARE RESIDENTS OF AN ADJACENT COUNTY.

11 (2) DO NOT OWN REAL ESTATE IN THE MUNICIPALITY OR
12 BOROUGH.

13 (c) Report.--The individuals appointed under subsection (b)
14 shall hold a hearing and make a report to the court containing
15 an adjustment and apportionment of all the property and the
16 indebtedness between the [township] municipality and the
17 borough. Notice shall be made to the [township] municipality and
18 borough as provided by the court. The report shall state the
19 amount due and payable from the borough or the [township]
20 municipality to the other entity and the amount of indebtedness
21 that shall be assumed by the borough or the [township]
22 municipality.

23 ~~Section 4. Sections 215, 217, 218, 219, 704(a) and (b),~~ <--
24 ~~801(a), 1104(c), 1122(a) and 1202(8) of Title 8 are amended to~~
25 ~~read:~~

26 § 215. Judicial adjustment award proceedings.

27 (a) Notice.--The commissioners shall give the [township]
28 municipality and the borough at least five days' notice of the
29 filing of the report under section 214(c) (relating to judicial
30 adjustment).

1 (b) Exceptions.--Unless exceptions are filed to the report
2 within 30 days after the date of the filing, the report shall be
3 confirmed by the court.

4 (c) Effect.--The following shall apply:

5 (1) Any sum awarded by the report to the [township]
6 municipality or borough shall be a legal and valid claim in
7 its favor against the borough or [township] municipality
8 charged with the sum.

9 (2) Any real or personal property given to the
10 [township] municipality or borough shall become its
11 respective property.

12 (3) Any claim or indebtedness charged against the
13 borough or [township] municipality may be collected from the
14 borough or the [township] municipality.

15 § 217. Compensation, expenses and costs.

16 The commissioners under section 214(b) (relating to judicial
17 adjustment) shall receive compensation and expenses for their
18 services as provided by the court. The costs of the proceedings,
19 including the compensation and expenses of the commissioners,
20 shall be apportioned by the court between the borough and
21 [township] municipality.

22 § 218. Territory located in multiple counties.

23 If territory included within the limits of a newly
24 incorporated borough is located in at least two counties, the
25 court of common pleas of the county where the larger part of the
26 territory of the borough is located shall have exclusive
27 jurisdiction over the proceedings to adjust and apportion the
28 indebtedness between the borough and [township] municipality.

29 § 219. Bond issues and taxation.

30 In any proceeding to adjust and apportion indebtedness, the

1 [township] municipality or the borough shall have power to issue
2 and deliver to the borough or [township] municipality interest-
3 bearing bonds in liquidation of the indebtedness ascertained, to
4 be its proportionate share payable, if the bonds are acceptable
5 to the borough or [township] municipality or [townships]
6 municipalities entitled to receive the bonds. The court may make
7 necessary orders for the collection and payment by the
8 [township] municipality or [townships] municipalities or borough
9 of the amount needed to pay its share of any indebtedness
10 apportioned to it by special taxes to be collected in one year
11 or by annual installments.

12 § 704. Associations and organizations for mayors.

13 (a) Authorization.--A mayor may join [a] any mayors'
14 association[, and council] in Pennsylvania. Council shall pay
15 reasonable dues [of up to] not to exceed \$100 [for each mayor
16 belonging to the mayors' association] if requested by the mayor.
17 The mayor may attend the annual meeting of the mayors'
18 association, which shall be held in this Commonwealth in
19 accordance with the procedure adopted by the mayors'
20 association.

21 (b) Expenses.--A mayor [may] shall, if requested, receive
22 the following expenses for attending the annual meeting under
23 subsection (a):

24 (1) The registration fee.

25 (2) Lodging, meals and mileage for use of a personal
26 vehicle or reimbursement of actual transportation expenses
27 going to and returning from the meeting.

28 (3) Any actual expenses that the council may have agreed
29 to pay.

30 * * *

1 § 801. Eligibility.

2 (a) Residency.--The following shall apply:

3 (1) [Except as provided under subsection (c), only] Only
4 registered electors of the borough shall be eligible to
5 elective borough offices.

6 (2) [Before] Except as provided under subsection (c) and
7 53 Pa.C.S. § 1142 (relating to residency during military
8 service), before being sworn into office, each elected
9 borough officer shall present a signed affidavit to the
10 borough secretary that states that the officer resides in the
11 borough, or within the ward in the case of a ward office,
12 from which elected and has resided in the borough
13 continuously for at least one year immediately prior to the
14 officer's election.

15 * * *

16 § 1104. Appointments and incompatible offices.

17 * * *

18 (c) Multiple offices.--If there is no incompatibility in
19 fact [and subject to subsection (a) as to compensation],
20 appointees of council may hold two or more appointive borough
21 offices, but no mayor or member of council may serve as borough
22 manager, secretary or treasurer.

23 * * *

24 § 1122. Police serving under cooperative agreement or contract.

25 (a) General rule.--If a borough enters into a cooperative
26 agreement or contract with any municipal corporation, regional
27 police force or other governmental entity created by two or more
28 municipal corporations under 53 Pa.C.S. Ch. 23 Subch. A
29 (relating to intergovernmental cooperation) for the furnishing
30 or receiving of police protection as authorized by section

1 [1202(35)] 1202(24) (relating to specific powers), the police
2 force of the municipal corporation, regional police force or
3 other governmental entity furnishing the police protection shall
4 be appointed and accepted as the police force of the borough
5 receiving the police service by resolution of the council.

6 * * *

7 § 1202. Specific powers.

8 The powers of the borough shall be vested in the council. In
9 the exercise of any specific powers involving the enactment of
10 an ordinance or the making of any regulation, restriction or
11 prohibition, the borough may provide for enforcement and
12 penalties for violations. The specific powers of the borough
13 shall include the following:

14 * * *

15 (8) [To provide for garbage and other refuse material as
16 follows:

17 (i) To prohibit, individually or jointly with other
18 municipal corporations pursuant to an agreement,
19 accumulations of garbage or other refuse material upon
20 public and private property and to make regulations for
21 the care, removal and collection of garbage or other
22 refuse material, including:

23 (A) To provide for the collection and imposition
24 of reasonable fees and charges for the collection of
25 garbage and other refuse material.

26 (B) To erect, operate and maintain refuse
27 disposal or incineration facilities or sanitary
28 landfills, either within or without the limits of the
29 borough, or provide other means for the collection,
30 destruction or removal of garbage and other refuse

1 material and provide for the payment of the cost or
2 expense of the activity, either in whole or in part,
3 out of the funds of the borough.

4 (C) To purchase real estate for the purpose of
5 erecting, operating and maintaining refuse disposal
6 or incineration facilities or sanitary landfills if,
7 prior to any acquisition of property pursuant to this
8 paragraph, the borough, individually or jointly, as
9 the case may be, obtains the approval of the court of
10 common pleas for the location of the facilities or
11 landfill after a hearing and subject to notice as the
12 court shall require. If no objections are heard at
13 the hearing, the court shall approve the location. If
14 any objection is made, the court shall proceed to
15 hear the matter and determine whether the location is
16 a detriment to neighboring properties. The finding of
17 the court shall be conclusive but in no way shall
18 adjudicate any question relating to damages for
19 injury to property.

20 (D) To take and appropriate real estate for
21 purposes of refuse disposals or incineration
22 facilities or sanitary landfills in accordance with
23 Chapter 15 (relating to eminent domain, assessment of
24 damages and damages for injury to property) if a
25 purchase price cannot first be agreed upon. No real
26 estate located outside the limits of the borough or
27 outside the limits of the joint municipal
28 corporations in the case of a joint effort shall be
29 taken and appropriated if the real estate currently
30 contains or is being used for a refuse disposal or

1 incineration facility or a sanitary landfill.

2 (ii) Regulations enacted under this paragraph shall
3 be consistent with the act of July 7, 1980 (P.L.380,
4 No.97), known as the Solid Waste Management Act, the act
5 of July 28, 1988 (P.L.556, No.101), known as the
6 Municipal Waste Planning, Recycling and Waste Reduction
7 Act, and subject to any other necessary Federal or State
8 approval.] (Reserved).

9 * * *

10 Section 5 2. Section 1316(c) of Title 8 is amended by adding <--
11 a paragraph to read:

12 § 1316. Investment of funds.

13 * * *

14 (c) Authorized types of investments.--Authorized types of
15 investments for borough funds are:

16 * * *

17 (9) An investment authorized by the act of July 25, 1973
18 (P.L.217, No.53), entitled "An act authorizing cities of the
19 first class and second class to invest all funds received and
20 deposited with the city treasurer in certain commercial paper
21 under certain terms and conditions; and providing for
22 investment of public corporation or municipal authority
23 funds."

24 * * *

25 Section 6 3. Title 8 is amended by adding a chapter to read: <--

26 CHAPTER 25B

27 SOLID WASTE COLLECTION AND DISPOSITION

28 Sec.

29 25B01. Definitions.

30 25B02. Accumulation of municipal waste.

- 1 25B03. Collection and removal.
2 25B04. Disposal.
3 25B05. Acquisition of real property and facilities.
4 25B06. Rates and charges.
5 25B07. Appropriations.
6 25B08. Exclusion from other laws.
7 § 25B01. Definitions.

8 The following words and phrases when used in this chapter
9 shall have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Municipal authority." A body politic and corporate created
12 under 53 Pa.C.S. Ch. 56 (relating to municipal authorities).

13 "Municipal waste." As defined in the act of July 28, 1988
14 (P.L.556, No.101), known as the Municipal Waste Planning,
15 Recycling and Waste Reduction Act.

16 § 25B02. Accumulation of municipal waste.

17 Council, in the manner authorized by the act of July 7, 1980
18 (P.L.380, No.97), known as the Solid Waste Management Act, and
19 the act of July 28, 1988 (P.L.556, No.101), known as the
20 Municipal Waste Planning, Recycling and Waste Reduction Act, may
21 prohibit accumulations of municipal waste upon public and
22 private property, including the imposition and collection of
23 reasonable fees and charges for the collection, removal and
24 disposal of municipal waste.

25 § 25B03. Collection and removal.

26 (a) General rule.--Council may collect and remove, by
27 contract or otherwise, municipal waste and recyclables and
28 prescribe penalties for the enforcement of the collection and
29 removal.

30 (b) Contract length.--A contract with refuse haulers may be

1 made for an initial period not to exceed five years with
2 optional renewal periods of up to five years.

3 (c) Limitation.--The limitation under subsection (b) shall
4 not apply to a contract with a political subdivision or
5 municipal authority.

6 § 25B04. Disposal.

7 (a) General rule.--Council may dispose of, by contract or
8 otherwise, municipal waste.

9 (b) Contract length.--A contract with the owner of a private
10 facility for the disposal or incineration of municipal waste may
11 be made for a period not to exceed 20 years.

12 (c) Exemption.--The limitation under subsection (b) shall
13 not apply to a contract with a political subdivision or
14 municipal authority.

15 § 25B05. Acquisition of real property and facilities.

16 The following shall apply:

17 (1) Council may acquire any real property and erect,
18 maintain, improve, operate and lease, either as lessor or
19 lessee, facilities for incineration, landfill or other
20 methods of disposal, either inside or outside the limits of
21 the borough, including equipment, either separately or
22 jointly, with a political subdivision or municipal authority
23 in order to provide for the collection, removal, disposal and
24 destruction of municipal waste, for the collection and
25 storage of recyclable materials or for the composting of leaf
26 and yard waste.

27 (2) Council may provide for the payment of the cost,
28 either in whole or part, out of the funds of the borough.

29 (3) Council may acquire land for landfill purposes,
30 either amicably or by exercising the power of eminent domain,

1 and may maintain lands and places for the dumping of
2 municipal waste.

3 (4) If council acquires land outside the limits of the
4 borough by exercising the power of eminent domain, the taking
5 shall be subject to the limitations in 26 Pa.C.S. § 206
6 (relating to extraterritorial takings).

7 § 25B06. Rates and charges.

8 (a) Council authorization.--Council may establish, alter,
9 charge and collect rates and other charges for the:

10 (1) collection, removal and disposal of municipal waste
11 and recyclable materials;

12 (2) cost of including the payment of any indebtedness
13 incurred for the construction, purchase, improvement, repair,
14 maintenance and operation of any facilities for collection,
15 removal and disposal; and

16 (3) amount due under a contract with a political
17 subdivision or municipal authority furnishing the services or
18 facilities.

19 (b) Method of collection.--The rates and other charges shall
20 be collected pursuant to the act of May 16, 1923 (P.L.207,
21 No.153), referred to as the Municipal Claim and Tax Lien Law, by
22 a civil action, or any other collection method authorized by
23 law.

24 § 25B07. Appropriations.

25 Council may make appropriations to a political subdivision or
26 municipal authority for the construction, purchase, improvement,
27 repair, maintenance and operation of a facility for the
28 collection, removal, disposal or marketing of municipal waste,
29 recyclable materials or composted leaf and yard waste.

30 § 25B08. Exclusion from other laws.

1 A borough shall not be subject to requirements otherwise
2 imposed by law for the sale of personal property owned by the
3 borough when selling recyclable materials or materials
4 separated, collected, recovered or created by recycling, as
5 provided in the act of April 9, 1992 (P.L.70, No.21), entitled
6 "An act excluding the sale of recyclable material from political
7 subdivision personal property sale restrictions relating to
8 advertising and bidding."

9 Section 7 4. Sections 3301.1(b) (2) and 3301.2(a) of Title 8 <--
10 are amended to read:

11 § 3301.1. Ordinances and resolutions.

12 * * *

13 (b) Legislative acts.--Every legislative act of council must
14 be by ordinance. Legislative acts shall include, but not be
15 limited to:

16 * * *

17 [(2) General appropriation ordinances.]

18 * * *

19 § 3301.2. Publication.

20 (a) Requirements.--Except as provided under this part or
21 other law, council shall publish every proposed ordinance once
22 in one newspaper of general circulation [for at least] no less
23 than seven days and [not] no more than 60 days [prior to
24 enactment] prior to the day when council shall vote on the
25 proposed ordinance. Publication of any proposed ordinance shall
26 include all of the following:

27 (1) The full text or the title of the ordinance and a
28 brief summary prepared by the borough solicitor setting forth
29 all the provisions in reasonable detail.

30 (2) A reference to the borough office or other place

1 where borough records are kept where copies of the proposed
2 ordinance may be examined.

3 * * *

4 Section 5. This act shall take effect in 60 days. <--