

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 379** Session of
2001INTRODUCED BY CONTI, KITCHEN, WAUGH, RHOADES, M. WHITE, LEMMOND
AND LOGAN, FEBRUARY 8, 2001

SENATE AMENDMENTS TO HOUSE AMENDMENTS, JUNE 20, 2001

AN ACT

1 Amending the act of February 1, 1966 (1965 P.L.1656, No.581),
2 entitled "An act concerning boroughs, and revising, amending
3 and consolidating the law relating to boroughs," changing
4 gender-specific references to members of the governing body;
5 further providing residency requirements for elective office
6 ~~and~~, for vacancy appointments AND FOR COMPENSATION OF
7 AUDITORS; and making editorial changes. ←

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

10 Section 1. Section 234 of the act of February 1, 1966 (1965
11 P.L.1656, No.581), known as The Borough Code, is amended to
12 read:

13 Section 234. Property; Assets; Liabilities; Ordinances;
14 Wards; Election Districts and Certain Officers.--Upon the
15 formation of the borough government, all of the property and
16 assets of the city shall become the property of the borough, and
17 such change of government shall not in any way affect any
18 liabilities incurred, rights accrued or vested, obligations,
19 issued or contracted, or any suits or prosecutions pending or
20 instituted to enforce any right or penalty accrued, or punish

1 any offense committed prior to such change. All ordinances of
2 the former city shall continue in force in the new borough until
3 altered or repealed in the manner provided by law. The wards and
4 election districts of the city shall become the wards and
5 election districts of the borough until altered or changed as
6 may be provided by law. And in the election of [councilmen]
7 members of council from the several wards, two [councilmen]
8 members of council shall be elected from each ward, unless
9 thereafter changed as provided by law. All constables, aldermen
10 and election officers in office in the city, when the borough
11 government is organized, shall remain in office until the
12 expiration of their respective terms of office.

13 Section 2. Section 601 of the act, amended October 9, 1967
14 (P.L.399, No.181), is amended to read:

15 Section 601. Power of Court to Erect, Abolish and Change
16 Wards and to Adjust, Alter and Establish Lines.--The court of
17 quarter sessions, upon petition, may divide boroughs into wards,
18 erect new wards out of two or more adjoining wards or parts
19 thereof, consolidate two or more wards into one ward, divide any
20 ward already erected into two or more wards, alter the lines of
21 any two or more adjoining wards or cause the lines or boundaries
22 of wards to be ascertained or established, or abolish all wards.
23 No borough shall be divided or redivided into more than thirteen
24 wards.

25 No ward shall be created containing less than three hundred
26 registered electors therein, and all wards which now or at any
27 time hereafter shall contain less than three hundred fifty
28 registered electors therein may, in the discretion of the court,
29 be abolished and if so abolished, the territory thereof shall be
30 distributed among the remaining wards in such manner as the

1 court of quarter sessions shall direct. All other wards as
2 heretofore established shall remain as heretofore, until altered
3 or divided as provided in this article.

4 In boroughs wherein any ward shall be abolished as herein
5 provided and the number of wards shall be reduced to less than
6 five, then the [councilman] member of council or [councilmen]
7 members of council in the ward or wards abolished shall continue
8 in office for the term for which elected and shall become a
9 [councilman] member of council or [councilmen] members of
10 council at large from such borough.

11 If the latest official census of the United States shall
12 disclose that in any borough the population of any ward exceeds
13 by fifty percent or more or is fifty percent or more less than
14 the average population of all the wards of such borough, the
15 court of quarter sessions upon application of the borough
16 council or, in case of failure of the council so to apply, upon
17 petition of any citizen of the borough, shall adjust the
18 boundaries of any or all of the wards in such borough, for the
19 purpose of more nearly equalizing ward populations throughout
20 the said borough. The provisions of sections 602, 603 and 604 of
21 this act shall not apply in cases of ward boundary adjustment as
22 provided for by this paragraph.

23 Section 3. Section 801 of the act, amended June 27, 1991
24 (P.L.72, No.11), is amended to read:

25 Section 801. Electors Only to be Eligible;
26 Incompatibility.--Registered electors of the borough only shall
27 be eligible to elective borough offices. All elected borough
28 officers shall reside in the borough from which elected and
29 shall have resided in the borough continuously for at least one
30 year immediately before their election. A school director shall

1 not be eligible to an elective borough office. No individual
2 shall at the same time hold more than one elective borough
3 office.

4 Section 4. Section 805 of the act is amended to read:

5 Section 805. Election of Borough Officers When Boroughs
6 Created, Etc.--Whenever a borough is incorporated under the
7 provisions of sections 201 to 219 inclusive of this act, or
8 whenever two or more boroughs are consolidated under the
9 provisions of sections 221 to 228 of this act, or whenever a
10 borough is created from a city of the third class under the
11 provisions of sections 231 to 235 of this act, the officers of
12 the borough, provided for in section 806 of this act, shall be
13 elected at the appropriate municipal election as provided in
14 said sections and such officers shall take office on the first
15 Monday of January succeeding such election.

16 At any such election, if the borough is not divided into
17 wards, of the seven [councilmen] members of council to be
18 elected, three or four [councilmen] members of council, as the
19 case may be, shall be elected for terms of two years each, and
20 three or four [councilmen] members of council, as the case may
21 be, shall be elected for terms of four years each, to coincide
22 with the number of [councilmen] members of council elected at
23 such election in existing boroughs under the provisions of
24 section 811 of this act.

25 In the case of the consolidation of two or more boroughs into
26 one borough, or the creation of a borough from a city of the
27 third class, and where in either event two [councilmen] members
28 of council are to be elected from each ward, one [councilman]
29 member of council shall be elected from each ward for a term of
30 two years and one [councilman] member of council shall be

1 elected from each ward for a term of four years.

2 In all boroughs coming within the provisions of this section,
3 three auditors shall be elected, one for a term of two years,
4 one for a term of four years, and one for a term of six years.

5 All other officers of the borough shall be elected at such
6 election for terms of two or four years, as the case may be, to
7 coincide with the terms of officers elected under this act at
8 such election in the existing boroughs.

9 Section 5. Section 806 of the act, amended March 30, 1988
10 (P.L.309, No.40), is amended to read:

11 Section 806. Officers to be Elected.--It shall be lawful for
12 the electors of the borough to elect:

13 (1) In boroughs not divided into wards, seven [councilmen]
14 members of council, one mayor, one assessor, except in those
15 boroughs where, under the applicable county assessment law, the
16 office of elected assessor in boroughs shall have been
17 abolished; a tax collector and three auditors or one controller
18 except in such boroughs where there shall be an appointed
19 auditor in lieu of elected auditors or controller. In any
20 borough with population, as determined by the latest official
21 census, of less than three thousand, the total number of
22 [councilmen] members of council may be reduced from seven to
23 five or to three upon petition to the court of common pleas, as
24 provided in section 818 of this act.

25 (2) In boroughs divided into wards, at least one, and not
26 more than two [councilmen] members of council in each ward,
27 except in boroughs where prior to the passage of this act three
28 [councilmen] members of council were elected in each ward. In
29 such boroughs, the number of [councilmen] members of council is
30 fixed at three in each ward until such number is reduced in the

1 manner provided by this act. [Councilmen] Members of council
2 shall be residents of the ward from which they are elected, and
3 chosen by the electors of the ward; also a mayor, a tax
4 collector and three auditors or a controller, except in such
5 boroughs where there shall be an appointed auditor in lieu of
6 elected auditors or controller, and an assessor, except in those
7 boroughs where, under the applicable county assessment law, the
8 office of elected assessor shall have been abolished who shall
9 be chosen by the electors of the boroughs at large.

10 Section 6. The heading of subdivision (b) of Article VIII of
11 the act is amended to read:

12 (b) [Councilmen] Members of Council

13 Section 7. Section 811 of the act, amended February 24, 1967
14 (P.L.1, No.1) and October 9, 1967 (P.L.399, No.181), is amended
15 to read:

16 Section 811. Election of [Councilmen] Members of Council.--
17 At the municipal election to be held in the year 1967, there
18 shall be elected in each borough a sufficient number of
19 [councilmen] members of council to equal one-half of the entire
20 number of which such council is legally composed, to serve for a
21 term of four years from the first Monday of January next
22 succeeding, and, where such entire number is seven, nine, or
23 eleven, then sufficient to constitute three, four, or five, as
24 the case may be; the aforesaid [councilmen] members of council,
25 to be elected in the year 1967, being successors to those
26 elected in the year 1963, whose terms, as heretofore provided by
27 law, expire on the first Monday of January, 1968. All
28 [councilmen] members of council whose terms expire on the first
29 Monday of January, 1970 shall continue to hold their office
30 until the first Monday of January, 1970, as now provided, and

1 their successors shall be elected at the municipal election in
2 the year 1969, to serve for a term of four years, from the first
3 Monday of January next succeeding. If for any reason
4 [councilmen] members of council are not elected as hereinabove
5 provided, [councilmen] members of council whose terms end on the
6 same date shall cast lots to determine who shall serve for a
7 two-year term and who shall serve for a four-year term. The
8 secretary of the borough shall certify the results to the
9 appropriate county board of elections. Biennially thereafter, at
10 the municipal election, a sufficient number of [councilmen]
11 members of council shall be elected, for a term of four years
12 from the first Monday of January next succeeding, to fill the
13 places of those whose terms, under the provisions of this act,
14 shall expire on the first Monday of January next following such
15 election.

16 Section 8. Sections 812, 813, 814, 816 and 817 of the act
17 are amended to read:

18 Section 812. Election of [Councilmen] Members of Council
19 Where New Wards Created.--Whenever the [court of quarter
20 sessions] court of common pleas shall divide any borough into
21 wards, erect new wards out of two or more wards or parts
22 thereof, divide a ward already erected into two or more wards,
23 or create a new ward out of annexed territory, and when the
24 report, in such case, is confirmed by the court, it shall, at
25 the same time, decree the election of an equal number of
26 [councilmen] members of council, in each of the wards, in such
27 manner as not to interfere with the terms of those theretofore
28 elected. Where a borough is first divided into wards, the court
29 shall fix the number of [councilmen] members of council in each
30 ward at not more than two. In decreeing such election, when the

1 entire number of council shall be composed of an even number,
2 the decree shall be so made that one-half of the entire number
3 shall thereafter be elected at each municipal election. When the
4 entire number of council shall be an odd number, the court shall
5 divide such council into two classes, and shall make its decrees
6 so that one-half of the entire number of [councilmen] members of
7 council, less one, shall, as soon as possible, take their office
8 in a year divisible by four, and the remaining number of
9 [councilmen] members of council shall take their office in an
10 even-numbered year not divisible by four. The apportionment
11 shall be so made by the court that there shall be equal or as
12 nearly equal as possible, representation by wards in each class.
13 Biennially thereafter, at each municipal election, a sufficient
14 number of [councilmen] members of council shall be elected, for
15 the term of four years from the first Monday of January next
16 succeeding, to fill the places of those whose terms shall expire
17 on the first Monday of the January next following such election.

18 Section 813. Fixing Number of [Councilmen] Members of
19 Council When Wards Created.--Whenever upon the division of any
20 borough into wards, or the creation of a new ward or wards, the
21 number of [councilmen] members of council cannot be equally
22 divided among the wards of the boroughs, it shall be lawful for
23 the court, in decreeing such division or creation, to increase
24 the number of council to, and not exceeding, such number as will
25 enable the court to make an equal apportionment of the same
26 among the several wards of such borough. But where a borough is
27 first divided into wards, the number of [councilmen] members of
28 council provided for a ward shall not exceed two.

29 Section 814. Increase in Number of [Councilmen] Members of
30 Council.--The [court of quarter sessions] court of common pleas,

1 having fixed the number of [councilmen] members of council, as
2 provided in section 812 of this article, may, upon petition of
3 at least five percent of the registered electors of the borough,
4 increase the same to any number not exceeding two for each ward.
5 The sufficiency of the number of signers to any such petition
6 shall be ascertained as of the date when the petition is
7 presented to court.

8 Section 816. Election of [Councilmen] Members of Council

9 Where Wards Abolished.--Whenever the [court of quarter sessions]
10 court of common pleas shall abolish all wards in any borough and
11 when the report in such case is confirmed by the court, it
12 shall, at the same time, decree the election of seven
13 [councilmen] members of council at large for the borough in such
14 manner as not to interfere with the terms of those ward
15 [councilmen] members of council theretofore elected. In
16 decreeing such election, where there were theretofore:

17 (1) Seven [councilmen] members of council, the decree shall
18 be so made that, at the first municipal election thereafter the
19 electors shall elect three or four [councilmen] members of
20 council, as the case may be, the number to be elected to be that
21 which, when added to the number of [councilmen] members of
22 council already in office whose terms are not about to expire,
23 shall bring the membership of the council to seven. Such newly
24 elected [councilmen] members of council shall serve for terms of
25 four years from the first Monday of January next succeeding such
26 first municipal election, except that, in any case where the
27 election of four [councilmen] members of council shall be
28 required to bring the membership of council to its full
29 complement of seven, and only three [councilmen] members of
30 council are elected at such municipal election in the other

1 boroughs of the State not divided into wards, three [councilmen]
2 members of council shall be elected for four-year terms and one
3 for a two-year term. Thereafter, at every succeeding municipal
4 election, the electors shall elect three or four [councilmen]
5 members of council, as the case may be, each to serve for a term
6 of four years from the first Monday of January following such
7 municipal election.

8 (2) Eight or more [councilmen] members of council, the
9 decree shall be so made that, at the first municipal election
10 thereafter the electors shall elect a sufficient number of
11 [councilmen] members of council that, when added to the number
12 of [councilmen] members of council already in office whose terms
13 are not about to expire, will bring the membership of the
14 council to seven. Such newly elected [councilmen] members of
15 council shall serve for terms of four years from the first
16 Monday of January next succeeding such first municipal election.
17 At the second municipal election after such decree, the electors
18 shall elect a sufficient number of [councilmen] members of
19 council, that, when added to the number of [councilmen] members
20 of council elected at the previous municipal election, shall
21 bring the membership of council to its full complement of seven,
22 some of such [councilmen] members of council elected at such
23 second municipal election to serve for a four-year term
24 following the first Monday of January next succeeding, the
25 remainder to serve for a two-year term, the number in each case
26 to be that required to bring the number of [councilmen] members
27 of council to be elected in such borough in succeeding municipal
28 elections into conformity with the number elected in the other
29 boroughs of the Commonwealth not divided into wards. In the
30 third and all subsequent municipal elections following such

1 decree of court, the electors shall elect three or four
2 [councilmen] members of council, as the case may be, each to
3 serve for a term of four years from the first Monday of January
4 following such municipal election.

5 In any such borough where, under the ward system of electing
6 [councilmen] members of council, the council shall have been so
7 large that there shall be seven or more [councilmen] members of
8 council whose terms shall not expire on the first Monday of
9 January following the first municipal election after such
10 decree, no [councilmen] members of council shall be elected at
11 such first municipal election, and the [councilmen] members of
12 council remaining in office shall constitute such borough
13 council until the first Monday of January following the second
14 municipal election following such decree. At such second
15 municipal election, seven [councilmen] members of council shall
16 be elected in such borough, some to serve for a four-year term
17 of office from the first Monday of January following such second
18 municipal election, the remainder to serve for a two-year term,
19 the number in each case to be such as to bring the number of
20 [councilmen] members of council to be elected in such borough in
21 succeeding elections into conformity with the number elected in
22 other boroughs of the Commonwealth not divided in towards.
23 Thereafter, at the third and all subsequent municipal elections
24 following such decree, the electors shall elect three or four
25 [councilmen] members of council, as the case may be, each to
26 serve for a term of four years from the first Monday of January
27 following such subsequent municipal election.

28 (3) Six or fewer [councilmen] members of council, the decree
29 shall be made so that at the first municipal election
30 thereafter, the electors shall elect a sufficient number of

1 [councilmen] members of council that, when added to the number
2 of [councilmen] members of council already in office whose terms
3 are not about to expire, will bring the membership of council to
4 its full complement of seven. Of such newly elected [councilmen]
5 members of council, either three or four, as necessary to bring
6 the number of [councilmen] members of council to be elected in
7 such borough in succeeding municipal elections into conformity
8 with the number elected in other boroughs of the Commonwealth
9 not divided into wards, shall be elected for four-year terms of
10 office, beginning the first Monday of January following such
11 first municipal election, and the balance shall be elected for
12 two-year terms. Thereafter, at the second municipal election
13 following such decree and at all subsequent municipal elections,
14 the electors shall elect three or four [councilmen] members of
15 council, as the case may be, to serve for a term of four years
16 from the first Monday of January following such subsequent
17 municipal election.

18 In any case where a vacancy may occur, at any time following
19 such decree, in the office of a [councilman] member of council
20 originally elected or appointed from a particular ward, the
21 person appointed to fill such vacancy need not be a resident of
22 the area formerly comprising such ward, but need only be a
23 registered elector of the borough.

24 Section 817. Vacancies Created After a Primary Election.--
25 Whenever a decree of court is made after a primary election and,
26 as a result thereof, a vacancy is created in the office of
27 [councilman] member of council, it may be filled by nomination
28 made by such committee as is authorized by the rules of the
29 party to make nominations in the event of vacancies on the party
30 ticket.

1 Section 9. Section 818 of the act, amended March 30, 1988
2 (P.L.309, No.40), is amended to read:

3 Section 818. Decrease in Number of [Councilmen] Members of
4 Council.--The court of common pleas may, upon petition of at
5 least five percent of the registered electors of any borough,
6 which, according to the latest official census, had a population
7 of not more than three thousand, reduce the total number of
8 [councilmen] members of council for such borough from seven to
9 five or to three. The sufficiency of the number of signers to
10 any such petition shall be ascertained as of the date when the
11 petition is presented to court.

12 The court shall give notice of the filing of such petition by
13 advertisement in the legal journal of the county, if one is
14 published in the county, and in one newspaper of general
15 circulation in the borough, and in such notice shall fix a day
16 and time for hearing. After such hearing, the court may decrease
17 the number of [councilmen] members of council elected in such
18 borough from seven to five or three, as requested in the
19 petition.

20 At the municipal election following the decrease in the
21 number of [councilmen] members of council in such borough, from
22 seven to five, if four [councilmen] members of council would
23 otherwise have been elected, there shall instead be elected
24 three [councilmen] members of council; if three [councilmen]
25 members of council would otherwise have been elected there shall
26 instead be elected two [councilmen] members of council. At the
27 second municipal election following the decrease in the number
28 of [councilmen] members of council in such borough, if four
29 [councilmen] members of council would otherwise have been
30 elected, there shall instead be elected three [councilmen]

1 members of council; if three [councilmen] members of council
2 would otherwise have been elected, there shall be elected two
3 [councilmen] members of council. At all following municipal
4 elections, there shall be elected the proper number of
5 [councilmen] members of council to correspond to the number of
6 [councilmen] members of council whose terms are to expire the
7 first Monday of the following January.

8 At the municipal election following the decrease in the
9 number of [councilmen] members of council in such borough from
10 seven to three, if four [councilmen] members of council would
11 otherwise have been elected there shall instead be elected two
12 [councilmen] members of council; if three [councilmen] members
13 of council would otherwise have been elected there shall instead
14 be elected one [councilman] member of council. At the second
15 municipal election following the decrease in the number of
16 [councilmen] members of council in such borough, if four
17 [councilmen] members of council would otherwise have been
18 elected, there shall instead be elected two [councilmen] members
19 of council; if three [councilmen] members of council would
20 otherwise have been elected, there shall be elected one
21 [councilman] member of council. At all the following municipal
22 elections, there shall be elected the proper number of
23 [councilmen] members of council to correspond to the number of
24 [councilmen] members of council whose terms are to expire the
25 first Monday of the following January.

26 In any borough where, under the provisions of this section,
27 the number of [councilmen] members of council shall be reduced,
28 the [councilmen] members of council then in office shall remain
29 in office until the end of their respective terms. If any such
30 borough shall thereafter attain a population in excess of three

1 thousand, according to the latest official census, the number of
2 [councilmen] members of council shall automatically be increased
3 from three or five to seven, following the reverse of the
4 procedure set forth in the third or fourth paragraph of this
5 section, as the case may be.

6 Section 10. Section 901 of the act, amended February 18,
7 1982 (P.L.82, No.29), is amended to read:

8 Section 901. Filling Vacancies in Elective Borough
9 Offices.--If any vacancy shall occur in the office of the mayor,
10 member of council, auditor, controller, assessor, or tax
11 collector, by death, resignation, removal from the borough, or
12 from a ward in the case of a ward office, or by failure to take
13 the required oath or to give bond as provided by law or
14 ordinance, or in any other manner whatsoever, the borough
15 council shall fill such vacancy within thirty days by
16 appointing, by resolution, a registered elector of the borough,
17 or of the ward in case of a ward office, to hold such office, if
18 the term thereof continues so long, until the first Monday in
19 January after the first municipal election occurring more than
20 sixty days after the vacancy occurs, at which election an
21 eligible person shall be elected to the office for the remainder
22 of the term. No person shall be appointed to fill a vacancy in
23 an elected borough or ward office unless he or she has resided
24 within the borough, or within the ward in the case of a ward
25 office, continuously for at least one year immediately prior to
26 his or her appointment.

27 The person appointed shall give bond if required by law or
28 ordinance.

29 In cases where the person elected to the office shall fail to
30 give bond, if any, required or to take the required oath, the

1 borough council, before making the appointment, shall declare
2 the office vacant.

3 If the council of any borough shall refuse, fail or neglect,
4 or be unable, for any reason whatsoever, to fill any vacancy
5 within thirty days after the vacancy happens, as provided in
6 this section, then the vacancy shall be filled within fifteen
7 additional days by the vacancy board. Such board shall consist
8 of the borough council exclusive of the mayor, and one
9 registered elector of the borough who shall be appointed by the
10 borough council at the council's first meeting each calendar
11 year or as soon thereafter as practical and who shall act as
12 chairman of the vacancy board. The board shall appoint a
13 registered elector of the borough, (or ward in the case of a
14 ward office), to hold such office, if the term thereof continues
15 so long, until the first Monday in January after the first
16 municipal election occurring more than sixty days after the
17 vacancy occurs, at which election an eligible person shall be
18 elected to the office for the remainder of the term.

19 If the vacancy is not filled by the vacancy board within
20 fifteen days, the chairman shall or in the case of a vacancy in
21 the chairmanship the remaining members of the vacancy board
22 shall petition the court of common pleas to fill the vacancy by
23 the appointment of a registered elector of the borough (or ward
24 in the case of a ward), to hold such office, if the term thereof
25 continues so long, until the first Monday in January after the
26 first municipal election occurring more than sixty days after
27 the vacancy occurs, at which election an eligible person shall
28 be elected to the office for the remainder of the term. In the
29 case where there are vacancies in more than a majority of the
30 offices of council, the court of common pleas shall fill such

1 vacancies upon presentation of petition signed by not less than
2 fifteen registered electors of the borough.

3 Section 11. Sections 903 and 904 of the act are amended to
4 read:

5 Section 903. Right of Council to Declare Seat of
6 [Councilmen] Member Vacant for Failure to Qualify.--If any
7 person, elected or appointed as a member of council, who has
8 been notified of [his] election or appointment, shall refuse or
9 neglect to qualify as such member of council within ten days
10 next succeeding the beginning of [his] the person's term of
11 office, unless prevented by sickness or prevented by necessary
12 absence from the borough, the borough council, acting without
13 such person, may declare [his] the person's office as member of
14 council vacant, and may fill such vacancy as provided in section
15 901 of this act. For such actions a majority of the remaining
16 members of the council shall constitute a quorum.

17 Section 904. Right of Council to Declare Seat of
18 [Councilman] Member Vacant for Failure to Attend Meetings,
19 Etc.--If any person, having qualified as a member of council,
20 shall neglect or refuse to attend two successive regular
21 meetings unless detained by sickness, or prevented by necessary
22 absence from the borough, or if in attendance at any meetings
23 shall neglect or refuse to vote or by [his] withdrawal from
24 council or otherwise refuse to act in [his] the person's
25 official capacity as a member of council, the borough council,
26 acting without such person, may declare [his] the person's
27 office as a member of council vacant, and may fill such vacancy
28 as provided in section 901 of this act. For such actions a
29 majority of the remaining members of the council shall
30 constitute a quorum.

1 No such office shall be declared vacant for failure to attend
2 meetings of the council until the holder thereof shall have been
3 given opportunity of hearing before the remaining members of the
4 council, at which time he shall show cause why he shall not be
5 removed. He shall be given at least ten days' written notice of
6 the time and place of such hearing.

7 Section 12. Section 1001 of the act, amended October 31,
8 1995 (P.L.346, No.58), is amended to read:

9 Section 1001. Organization of Council; Quorum; Compensation;
10 Eligibility.--The borough council shall organize on the first
11 Monday of January of each even-numbered year, by electing one of
12 their number as president and one of their number as vice-
13 president, who shall hold such offices at the pleasure of the
14 council. If the first Monday is a legal holiday, the meeting and
15 organization shall take place the first day following. Any
16 action taken by any borough council at any time between 12:01
17 o'clock ante meridian on January 1 of an even-numbered year and
18 the organization of council in that year shall be subject to
19 reconsideration by the new council at any time within ten days
20 after such organization. The council may at the organization
21 meeting elect such other officers as may be provided for by law
22 or ordinance, or as may be deemed necessary for the conduct of
23 affairs of the borough and may transact such other business as
24 may come before the meeting. The president, and during [his] the
25 president's absence or incapacity the vice-president, shall
26 preside over the meetings of council and perform such other
27 duties as are prescribed by this act or by ordinance. A majority
28 of the membership of council then in office shall constitute a
29 quorum. [Councilmen] Members of council may receive compensation
30 to be fixed by ordinance at any time and from time to time as

1 follows: In boroughs with a population of less than five
2 thousand, a maximum of eighteen hundred seventy-five dollars
3 (\$1875) a year; in boroughs with a population of five thousand
4 or more but less than ten thousand, a maximum of two thousand
5 five hundred dollars (\$2500) a year; in boroughs with a
6 population of ten thousand or more but less than fifteen
7 thousand, a maximum of three thousand two hundred fifty dollars
8 (\$3250) a year; in boroughs with a population of fifteen
9 thousand or more but less than twenty-five thousand, a maximum
10 of four thousand one hundred twenty-five dollars (\$4125) a year;
11 in boroughs with a population of twenty-five thousand or more
12 but less than thirty-five thousand, a maximum of four thousand
13 three hundred seventy-five dollars (\$4375) a year; and in
14 boroughs with a population of thirty-five thousand or more, a
15 maximum of five thousand dollars (\$5000) a year. Such salaries
16 shall be payable monthly or quarterly for the duties imposed by
17 the provisions of this act.

18 The population shall be determined by the latest available
19 official census figures. In no case shall the compensation for
20 any [councilman] member of council exceed that of the mayor in
21 any given borough: Provided, however, That wherever the mayor's
22 compensation exceeds that authorized by this section for
23 [councilmen] members of council, the president of council may
24 receive compensation not to exceed that of the office of mayor.

25 Section 13. Sections 1002, 1003, 1004 and 1005(7) of the act
26 are amended to read:

27 Section 1002. Oath of ~~(Councilmen)~~ [COUNCILMEN] Members of ←
28 Council.--Before entering upon the duties of their office, the
29 [councilmen] members of council shall take and subscribe an oath
30 or affirmation to support the Constitution of the United States

1 and of the Commonwealth of Pennsylvania and to perform the
2 duties of their office with fidelity, together with such loyalty
3 oath as is prescribed and required by law. The oath or
4 affirmation may be taken before any judge or justice of the
5 peace of the county, or before the mayor of the borough when he
6 has qualified, and shall be filed with the borough secretary and
7 be preserved among the records of the borough for a period of
8 six years.

9 Section 1003. When the Mayor May Preside Over Council and
10 Vote; Attendance of Mayor at Council Meetings; Breaking Tie
11 Votes.--The mayor shall preside over the organization of the
12 council, until it is organized as provided in section 1001, and
13 he shall be deemed a member of council at the organization
14 meeting if his membership becomes necessary to constitute a
15 quorum, but he shall not vote thereat unless his vote shall, for
16 any reason whatsoever, be required to effect the organization of
17 council, or to elect any officer who is required to be or may be
18 elected at the organization meeting. In case of the absence of
19 the mayor at the organization meeting, one of the members of
20 council, chosen by the members present at the meeting, shall
21 preside.

22 The mayor may attend any or all regular and special meetings
23 of council and may take part in the discussions of the council
24 on matters pertaining to borough affairs, subject to any
25 restrictions applicable to [councilmen] members of council
26 contained in the rules of order or bylaws of the council. In all
27 cases where, by reason of a tie or split vote, the council of
28 any borough shall be unable to enact or pass any ordinance,
29 resolution, or motion, or to declare or fill any vacancy in its
30 membership, or in any other borough office, or to take any

1 action on any matter lawfully brought before it, the mayor, if
2 in attendance at the meeting, may at his option cast the
3 deciding vote, or request that the matter be tabled until a
4 special meeting of council to be held within not less than five
5 days or more than ten days at which time the matter shall be
6 reconsidered by council and, if a tie or split vote still
7 exists, it shall be the duty of the mayor at that time to cast
8 the deciding vote. If such a tie or split vote shall occur at
9 any meeting when the mayor is not in attendance the matter shall
10 be tabled to a special meeting to be held within not less than
11 five days or more than ten days as set by the president of
12 council, and the mayor shall be given at least five days' notice
13 of such meeting, at which meeting it shall be the duty of the
14 mayor to cast the tie-breaking vote.

15 Section 1004. Failure of Council to Organize.--If the
16 council of any borough shall fail to organize within ten days
17 from the time prescribed in this article, the court of [quarter
18 sessions] common pleas, upon the petition of at least ten
19 registered electors of the borough verified by the affidavit of
20 one of the petitioners, shall issue a rule upon the delinquent
21 [councilmen] members of council to show cause why their seats
22 should not be declared vacant. The rule shall be returnable not
23 less than five days from the time of its issue and, after
24 hearing, the court may declare the seats of such [councilmen]
25 members of council, as are responsible for such failure to
26 organize, vacant, and shall thereupon appoint others in their
27 stead, who shall hold office for the respective unexpired terms.

28 Section 1005. Powers of Council.--The council of the borough
29 shall have power:

30 * * *

1 (7) To provide by ordinance passed by a two-thirds vote of
2 the entire number of [councilmen] members of council elected,
3 for the appointment of an independent auditor who shall be a
4 certified public accountant, registered in Pennsylvania, a firm
5 of certified public accountants so registered or a competent
6 public accountant or a competent firm of public accountants.
7 Where such an ordinance has been so adopted, an independent
8 auditor shall be appointed, annually, by resolution before the
9 close of a fiscal year, to make an independent examination of
10 the accounting records of the borough for such fiscal year and
11 such independent auditor shall also perform the other duties and
12 exercise the powers as conferred upon him by subdivision (k) of
13 article XI of this act. When an independent auditor is appointed
14 as herein provided, the office of elected borough auditor or
15 controller, as the case may be, is thereby abolished although
16 the borough auditors, or controller, then in office shall
17 continue to hold their office during the term for which elected
18 and the borough auditors or controller shall not audit, settle,
19 or adjust the accounts audited by such independent auditor but
20 shall perform the other duties of their office.

21 Whenever any borough has provided by ordinance for the audit
22 of its accounts by an appointed auditor, the borough shall have
23 the right at any time to repeal said ordinance, and thereupon
24 the office of appointed auditor shall be abolished, as of the
25 date set in such ordinance and said borough shall have the
26 further right at the next municipal election following the
27 repeal of said ordinance to elect three auditors, one for a term
28 of two years, one for a term of four years, and one for a term
29 of six years, from the first Monday of January succeeding such
30 election, which auditors so elected shall succeed the appointed

1 auditor and shall have and possess all the powers and perform
2 all the duties provided in this act for elected auditors. If at
3 any time after the effective date of any such ordinance
4 abolishing the office of appointed auditor, there shall be a
5 vacancy in the office of elected auditor, council shall fill
6 such vacancies in the manner prescribed in section 901 of this
7 act.

8 * * *

9 Section 14. Section 1030 of the act, amended December 17,
10 1990 (P.L.739, No.184), is amended to read:

11 Section 1030. When President or Vice-President of Council to
12 Act as Mayor.--Whenever the mayor is absent or incapacitated, or
13 there is a vacancy in the office, the duties of the office shall
14 be discharged by the president of council, or in the absence or
15 incapacity of the president of council, or where there is a
16 vacancy in the office, by the vice-president of council. While
17 discharging the duties of mayor, the president or vice-president
18 of council shall be entitled to the same salary as the mayor
19 would receive, and, during the time such salary is paid to the
20 president or vice-president of council as acting mayor, the
21 mayor shall not be paid compensation. The president or vice-
22 president of council, when acting as mayor, shall have power to
23 veto any proposed ordinance or to break a tie, but shall not
24 have power to vote as [councilman] a member of council.

25 Section 15. Section 1053 of the act, amended April 11, 1974
26 (P.L.255, No.64), is amended to read:

27 Section 1053. Compensation of Auditors.--[Each auditor shall
28 receive no less than fifteen dollars (\$15) or more than thirty
29 dollars (\$30), as council may determine, per day for each day
30 necessarily employed in the discharge of his duties, to be paid

1 by the borough. A day shall consist of not less than five hours
2 in the aggregate.] (a) Subject to the limitations set forth in
3 subsection (b), each auditor shall receive no less than five
4 dollars (\$5) nor more than ten dollars (\$10), as council may
5 determine, per hour for each hour or portion thereof necessarily
6 employed in the discharge of his duties, to be paid by the
7 borough.

8 (b) No auditor in a borough having a population of ten
9 thousand or less shall be entitled to receive more than one
10 thousand dollars (\$1,000) for completing the annual audit,
11 settlement and adjustment. No auditor in a borough having a
12 population in excess of ten thousand shall be entitled to
13 receive more than two thousand dollars (\$2,000) for completing
14 the annual audit, settlement and adjustment.

15 (c) Each auditor shall be reimbursed for travel costs
16 incurred in the performance of the auditing duties at the rate
17 established by the borough council under the act of July 20,
18 1979 (P.L.156, No.51), referred to as the Uniform Mileage Fee
19 Law, and for other actual expenses, including postage, notary
20 fees or publication costs, necessarily incurred during the
21 audit.

22 Section 16. Section 1104 of the act, amended March 28, 1990
23 (P.L.82, No.18), is amended to read:

24 Section 1104. Appointments; Incompatible Offices.--Unless
25 there is incompatibility in fact, any elective or appointive
26 officer of the borough shall be eligible to serve on any board,
27 commission, bureau or other agency created by or for the
28 borough, or any borough office created or authorized by statute
29 and may accept appointments thereunder, but no mayor or
30 [councilman] member of council shall receive compensation

1 therefor. No elected borough official of a borough with a
2 population of 3,000 or more may serve as an employe of that
3 borough. Where there is no incompatibility in fact, and subject
4 to the foregoing provisions as to compensation, appointees of
5 council may hold two or more appointive borough offices, but no
6 mayor or member of council may serve as borough manager or as
7 secretary or treasurer. No person holding the office of justice
8 of the peace may at the same time hold the office of borough
9 treasurer. The offices of secretary and treasurer may be held by
10 the same person when so authorized by ordinance. Nothing herein
11 contained shall affect the eligibility of any borough official
12 to hold any other public office or receive compensation
13 therefor. All appointments to be made by the council or the
14 corporate authorities shall be made by a majority of the members
15 of council attending the meeting at which the appointment is
16 made, unless a different vote is required by statute.

17 Section 17. Sections 1194 and 1404 of the act are amended to
18 read:

19 Section 1194. Penalty.--Any [councilman] member of council
20 who, by his vote, causes to be appointed any person to the
21 police force or as a fire apparatus operator contrary to the
22 provisions of this subdivision, or any [councilman] member of
23 council or member of the commission who wilfully refuses to
24 comply with, or conform to, the provisions of subdivision (j) of
25 this article, shall be deemed guilty of a misdemeanor, and upon
26 conviction thereof, shall be sentenced to pay a fine not
27 exceeding one hundred dollars (\$100), or suffer imprisonment not
28 exceeding three months, or both.

29 Section 1404. Penalty for Personal Interest in Contracts or
30 Purchases.--Except as otherwise provided in this act, no borough

1 official either elected or appointed, who knows or who by the
2 exercise of reasonable diligence could know, shall be interested
3 to any appreciable degree either directly or indirectly in any
4 purchase made or contract entered into or expenditure of money
5 made by the borough or relating to the business of the borough,
6 involving the expenditure by the borough of more than one
7 thousand dollars (\$1000) in any calendar year, but this
8 limitation shall not apply to cases where such officer or
9 appointee of the borough is an employe of the person, firm or
10 corporation to which the money is to be paid in a capacity with
11 no possible influence on the transaction, and in which he cannot
12 be possibly benefited thereby either financially or otherwise.
13 But in the case of a [councilman] member of council or mayor, if
14 he knows that he is within the exception just mentioned he shall
15 so inform council and shall refrain from voting on the
16 expenditure or any ordinance relating thereto, and shall in no
17 manner participate therein. Any official or appointee who shall
18 knowingly violate the provisions of this section shall be
19 subject to surcharge to the extent of the damage shown to be
20 thereby sustained by the borough and to ouster from office, and
21 shall be guilty of a misdemeanor, and upon conviction thereof
22 shall be sentenced to pay a fine not exceeding one thousand
23 dollars (\$1000), or not exceeding one hundred eighty days'
24 imprisonment, or both.

25 Section 18. Section 3103 of the act, amended October 9, 1967
26 (P.L.399, No.181), is amended to read:

27 Section 3103. Oaths of Members, Secretary and Health
28 Officer; Organization; Bonds.--The members of the board shall
29 severally take and subscribe to the oath prescribed for borough
30 [councilmen] members of council together with such loyalty oath

1 as is prescribed and required by law; and shall annually
2 organize by electing a president from among the members of the
3 board, a secretary who may or may not be a member of the board,
4 and a health officer shall receive such salary as may be fixed
5 by the board, and ratified by the borough council, and shall
6 serve for a period until such time as their successors may be
7 elected and qualified. If the borough council shall so require,
8 they shall severally give bond to the borough in such sums as
9 council shall prescribe for the faithful discharge of their
10 duties. They shall take and subscribe to the oaths required of
11 members of the board.

12 Section 19. This act shall take effect in 60 days.