

No. 2001-107

AN ACT

HB 1405

Amending the act of August 9, 1955 (P.L.323, No.130), entitled, as amended, "An act relating to counties of the first, third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto; relating to imposition of excise taxes by counties, including authorizing imposition of an excise tax on the rental of motor vehicles by counties of the first class; and providing for regional renaissance initiatives," further providing for classification of counties, for filling of vacancies, for reports and for preparation and filing of proposed budget; and making editorial changes.

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

Section 1. Section 210 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, amended February 5, 1982 (P.L.7, No.3), is amended to read:

Section 210. Counties Divided Into Nine Classes.—For the purposes of legislation and the regulation of their affairs, counties of this Commonwealth, now in existence and those hereafter created, shall be divided into nine classes as follows:

(1) First Class Counties, those having a population of 1,500,000 inhabitants and over.

(2) Second Class Counties, those having a population of 800,000 and more but less than 1,500,000 inhabitants.

(2.1) Second Class A Counties, those having a population of 500,000 and more but less than 800,000 inhabitants.

(3) Third Class Counties, those having a population of [225,000] 210,000 and more but less than 500,000 inhabitants.

(4) Fourth Class Counties, those having a population of [150,000] 145,000 and more but less than [225,000] 210,000 inhabitants.

(5) Fifth Class Counties, those having a population of 95,000 and more but less than [150,000] 145,000 inhabitants.

(6) Sixth Class Counties, those having a population of 45,000 and more but less than 95,000 inhabitants and those having a population of 35,000 and more but less than 45,000 inhabitants which by ordinance or resolution of the Board of County Commissioners elect to be a county of the sixth class.

(7) Seventh Class Counties, those having a population of 20,000 or more but less than 45,000 inhabitants and those having a population of 35,000 and more but less than 45,000 inhabitants which have not elected to be a county of the sixth class.

(8) Eighth Class Counties, those having a population of less than 20,000 inhabitants.

Section 2. Section 1404 of the act is amended to read:

Section 1404. Filling of Vacancies.—(a) If any vacancy shall occur in the office of district attorney *in a county of the third class*, either by death, resignation, removal from office or from the county, or otherwise, the judges of the court of common pleas shall supply such vacancy by the appointment of a competent person to fill the office during the balance of the unexpired term.

(b) *If any vacancy shall occur in the office of district attorney in a county of the fourth through eighth class, the first assistant district attorney shall become district attorney and discharge the duties of the district attorney until the first Monday in January following the next municipal election occurring not less than ninety days after the occurrence of the vacancy. If the first assistant district attorney is unwilling or unable to serve, the judges of the court of common pleas shall fill the vacancy by the appointment of a competent person to fill the office until the first Monday in January following the next municipal election occurring not less than ninety days after the occurrence of the vacancy.*

Section 3. Section 1720 of the act, amended May 6, 1981 (P.L.49, No.16), is amended to read:

Section 1720. Controller's Settlement of Accounts; Report to Common Pleas; Publications; Financial Report to Department of Community [Affairs] and Economic Development.—The controller shall, at the end of each fiscal year, complete the audit, settlement and adjustment of the accounts of all county officers. He shall, before the first day of April in every year, make a report, verified by oath or affirmation, to the Court of Common Pleas of said county, of all receipts and expenditures of the county for the preceding year, in detail, and classified by reference to the object thereof, together with a full statement of the financial conditions of the county. A concise summary of this report shall thereupon be published one time in such newspapers published in said county as the controller may direct, but the aggregate cost thereof shall not exceed fifteen hundred dollars (\$1500) in any one year in any county, to be paid for out of the county treasury. Such report may also be published in printed pamphlets at the cost of the county, the number and cost of such pamphlets to be determined by the controller and the county commissioners. The controller shall also, before the first day of April, make an annual report to the Department of Community [Affairs] and Economic Development of the financial condition of the county, on forms furnished by the Secretary of Community [Affairs] and Economic Development, and subject to the penalties provided in section one thousand seven hundred twenty-one of this act for auditors refusing or neglecting to make similar reports. Within the summary of the auditor's or controller's report, there shall be a notice to the public that the entire text of the report shall be available for public inspection during regular business hours in the office of the auditor or controller.

Section 4. Sections 1781 and 1782.1 of the act, amended or added December 14, 1967 (P.L.831, No.357), are amended to read:

Section 1781. Preparation of Proposed Annual Budget.—(a) The commissioners, at least thirty days prior to adopting the budget, shall begin the preparation of the proposed budget for the succeeding fiscal year.

(b) The controller shall transmit to the commissioners a comparative statement of revenues for the current and the immediately preceding fiscal year, and a comparative statement of expenditures, including interest due and to fall due on all lawful interest bearing debts of the county for the same years.

(c) The controller's statement shall also indicate the amounts of all appropriation requests, submitted to the controller or to the commissioners and supplied by them to the controller, from the several county offices and agencies, including estimates of expenditures contemplated by the commissioners as forwarded by them to the controller.

(d) Said statements[,] *shall be* in such form and detail as the commissioners direct[,], **shall be prepared upon a form or forms furnished, as provided in this subdivision, by the Department of Community Affairs of the Commonwealth**]. With this information as a guide, the commissioners shall, within a reasonable time, begin the preparation of a proposed budget for the succeeding fiscal year.

(e) In counties not having a controller, the commissioners shall prepare the statements hereinbefore required.

Section 1782.1. Amending Budget; Notice.—During the month of January next following any municipal election the commissioners of any county may amend the budget and the levy and tax rate to conform with its amended budget. A period of ten days' public inspection at the office of the chief clerk of the proposed amended budget, after notice by the chief clerk to that effect is published once in a newspaper as provided in section 110 of this act, shall intervene between the proposed amended budget and the adoption thereof. Any amended budget must be adopted by county commissioners on or before the fifteenth day of February.

No such proposed amended budget shall be revised upward in excess of ten per centum in the aggregate thereof or as to an individual item in excess of twenty-five per centum of the amount of such individual item in the proposed amended budget.

[Within fifteen days after the adoption of an amended budget the chief clerk shall file a copy thereof in the office of the Department of Community Affairs.]

Section 5. Section 1782.3 of the act, added August 18, 1977 (P.L.198, No.58), is amended to read:

Section 1782.3. Amending Budget, Levy and Tax Rate; Revising Tax Duplicates; Filing.—**[(a)]** At any time prior to the time tax duplicates are sent by the county in any year, the commissioners of any county may amend the budget and the levy and tax rate and revise the tax duplicate to conform

with its amended budget when such county shall receive unanticipated revenues which may be expended during such county's fiscal year where such unanticipated revenues may enable the commissioners of such county to reduce the levy and tax rate to conform with its amended budget.

[(b) Within fifteen days after any amendment to the budget and levy and tax rate, the commissioners shall file a copy thereof in the office of the Department of Community Affairs.]

Section 6. Section 1783 of the act, amended October 5, 1967 (P.L.342, No.147), is amended to read:

Section 1783. Annual Budget Appropriations and Tax Rate[; **Filing Budget**].—The budget shall reflect as nearly as possible the estimated revenues and expenditures for the year for which it is prepared. **[It shall be prepared on forms provided in accordance with this subdivision by the Department of Community Affairs.]** The commissioners shall, upon adopting the budget, adopt the appropriation measures required to put it into effect, and shall fix such rate of taxation upon the valuation of the property taxable for county purposes as will, together with all other estimated revenues of the county, raise a sufficient sum to meet the said expenditures. **[Within fifteen days after the adoption of the budget, the commissioners shall file a copy thereof in the office of the Department of Community Affairs.]**

Section 7. Any county whose classification upon the effective date of this section would be advanced from its classification during the preceding decade as a result of the amendment of section 210 of the act shall retain the classification of the county existing during the preceding decade unless the Board of County Commissioners of the county elects by ordinance or resolution to advance its classification.

Section 8. Prior to January 1, 2002, the Governor shall notify, in accordance with section 211(b) of the act, the board of county commissioners of the amendment of section 210 of the act and of the effect of that amendment.

Section 9. This act shall take effect as follows:

- (1) The following provisions shall take effect immediately:
 - (i) The amendment of sections 210 and 1404 of the act.
 - (ii) Sections 7 and 8 of this act.
 - (iii) This section.
- (2) The remainder of this act shall take effect in 60 days.

APPROVED—The 17th day of December, A.D. 2001.

MARK S. SCHWEIKER