

ment of teachers' salaries, research and projects which will contribute to the economic welfare of youth and adults.

Section 3. The act is amended by adding, after section 2508.2, a new section to read:

The act is amended by adding a new section 2508.3.

Section 2508.3. Payments for Vocational Training of Recipients of Public Assistance and Unemployment Compensation.—The State Board for Vocational Education shall establish rules and regulations and thereunder, approve and authorize payment of the full cost of intensive vocational education classes for qualified public assistance recipients or other unemployed, to take definite available employment which may be contingent upon such training.

Section 4. This act shall take effect immediately.

Act effective immediately.

APPROVED—The 13th day of July, A. D. 1957.

GEORGE M. LEADER

No. 399

AN ACT

Giving cities of the third class the right and power to adopt one of several plans of optional charters and to exercise the powers and authority of local self-government subject to certain restrictions and limitations; providing procedures for such adoption and defining the effect thereof.

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

ARTICLE I.

PRELIMINARY PROVISION.

Section 101. This act shall be known and may be cited as the "Optional Third Class City Charter Law."

Optional Third Class City Charter Law.

Section 102. The following words and terms as used in the act, unless the context clearly indicates otherwise, shall mean:

Definitions.

"City," a city of the third class.

Section 103. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the

Severability.

clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have rendered.

ARTICLE II.

PROCEDURE FOR ADOPTION OF OPTIONAL CHARTER PLANS.

A. Charter Commission.

Section 201. (a) Whenever authorized by ordinance of the council, or upon petition of the registered voters of any city to the county board of elections of the county wherein the city is located, an election shall be held in the city upon the question: "Shall a charter commission of seven members (or any designated number up to and including fifteen) be elected to study the charter and form of government of the city of and to consider a new charter and to make recommendations thereon?" The petition calling for such election shall be in the form required by subsection (b) hereof, and shall be signed by at least fifteen per centum of the registered voters of the city.

Within five days after the final enactment of an ordinance authorizing such election, the city clerk 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. At the next municipal or general election occurring not less than sixty days after the filing of the ordinance or the petition with the county election board, it shall cause the question above stated to be submitted to the electors of the city as other questions are submitted under the provisions of the Pennsylvania Election Code.

(b) A petition under this section shall be filed at least sixty-four days prior to the municipal or general 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 in so far as such provisions are applicable, except that no petition shall be signed or circulated prior to thirty days before the last day on which such petition may be filed.

Section 202. A charter commission of seven members, or other number designated in the question, shall be elected by the qualified voters at the same election the question is submitted to the electors. Candidates for the office of charter commissioner shall be nominated and placed upon the ballot containing the question and the proceedings thereon adjudicated in the manner provided by and subject to the provisions of the Pennsylvania Election Code which relate to the nomination of

candidates nominated by nomination papers filed by political bodies for other offices elective by the voters of a city, except that they shall be nominated and listed without any political designation or slogan, and no nomination paper shall be signed or circulated prior to thirty days before the last day on which such papers may be filed. Each voter 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 charter commission who shall serve if the question is determined in the affirmative.

Section 203. (a) Candidates for the charter commission shall be registered voters of the city. They may be nominated by nomination papers signed by a number of qualified electors of the city equal at least to two per centum of the largest entire vote cast for any city officer elected at the last preceding municipal election in the city and filed with the county board of elections not less than forty-four days prior to the date of the election.

(b) Each nominating paper shall set forth the names, places of residence, and post-office addresses of the candidate or candidates thereby nominated, that the nomination is for the office of charter commissioner, and that the signers are legally qualified to vote for such candidate or candidates. Every voter signing a nominating paper shall add to his signature his place of residence, post-office address and street number, if any. No voter shall sign a nomination paper or papers for more than the designated number of candidates.

(c) Each nominating paper shall, before it may be filed with the county board of elections, contain an acceptance of such nomination in writing, signed by the candidate or candidates therein nominated, upon or annexed to such paper, or if the same person or persons be named in more than one paper, upon or annexed to one of such papers. Such acceptance shall certify that the candidate is a registered voter of the city, that the nominee consents to stand as a candidate at the election, and that if elected he agrees to take office and serve.

(d) Each nominating paper shall be verified by an oath or affirmation of one or more of the signers thereof, taken and subscribed before a person qualified under the laws of Pennsylvania to administer an oath, to the effect that the paper was signed by each of the signers thereof in his proper handwriting, that the signers are, to the best knowledge and belief of the affiant, registered voters of the city, and that the nomination paper is

prepared and filed in good faith for the sole purpose of endorsing the person or persons named therein for election as stated in the paper.

Section 204. The result of the votes cast for and against the question as to the election of a charter commission shall be returned by the election officers, and a canvass of such election had, as is provided by law in the case of other public questions put to the voters of a single city. The votes cast for members of the charter commission shall be counted, and the result thereof returned by the election officers, and a canvass of such election had, as is provided by law in the case of election of members of city council. The designated number of candidates receiving the greatest number of votes shall be elected and shall constitute the charter commission: Provided, That if a majority of those voting on said question shall vote against the election of a charter commission, none of the candidates shall be elected. If two or more candidates shall be equal and greatest in number of votes, they shall draw lots to determine which one shall be elected.

Section 205. As soon as possible and in any event no later than fifteen days after its election, the charter commission shall organize and hold its first meeting and elect one of its members as chairman, fix its hours and place of meeting, and adopt such rules for the conduct of its business as it may deem necessary and advisable. A majority of the members of said commission shall constitute a quorum for the transaction of business, but no recommendation of said commission shall have any legal effect unless adopted by a majority of the whole number of the members of the commission.

Section 206. In case of any vacancy in the charter commission, the remaining members of such commission shall fill it by appointing thereto some other properly qualified elector.

Section 207. It shall be the function and duty of the charter commission to study the form of government of the city, to compare it with other available forms under the laws of this State, to determine whether or not in its judgment the government of the city could be strengthened, made more clearly responsive or accountable to the people, or whether its operation could become more economical or efficient under a changed form of government.

Section 208. Members of the charter commission shall serve without compensation, but shall be reimbursed by the city for their necessary expenses incurred in the performance of their duties. Council shall appropriate moneys necessary for such purpose.

Within the limits of such appropriations and privately contributed funds and services as shall be made available to it, the charter commission may appoint one or more consultants and clerical and other assistants to serve at the pleasure of the commission and may fix a reasonable compensation to be paid such consultants and clerical and other assistants.

Section 209. The charter commission shall hold 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.

Section 210. The charter commission shall report its findings and recommendations to the citizens of the city within nine calendar months from the date of its election. It shall publish or cause to be published sufficient copies of its final report for public study and information, and shall deliver to the city clerk sufficient copies of the report to supply it to any interested citizen upon request. If the charter commission shall recommend the adoption of any of the optional plans of government as authorized in this act, the report shall contain the complete plans as recommended.

Section 211. (a) The charter commission shall be discharged upon the filing of its report: Provided, That if the commission's recommendations require further procedure on the part of city council or the people of the city, the commission shall not be discharged until a copy of the report has been certified to the county board of elections. Any time before such procedure has been finally concluded but not later than one year from the date of the publication of its final report, the commission may modify or change any recommendation set forth in said final report by publishing an amended report.

(b) Whenever a charter commission issues an amended report pursuant to subsection (a) above, such amended report shall supersede the final report and such final report shall cease to have any legal effect under this act.

(c) The procedure to be taken under the amended report shall be governed by all provisions of Article II. of this act applicable to the final report of a charter commission submitted pursuant to section 210 of this act.

Section 212. The charter commission may report and recommend:

(1) that a referendum shall be held to submit to the qualified voters of the city the question of adopting one of the optional forms of government authorized by this act to be specified by the commission; or

(2) that the form of government of the city shall remain unchanged; or

(3) such other action as it may deem advisable consistent with its functions as set forth in this article.

Section 213. If the charter commission shall recommend the adoption of any of the optional forms of government set forth in this act, it may also specify that the city council shall consist of seven or nine members instead of five members as provided in said optional forms.

Section 214. The question to be submitted to the voters for the adoption of any of the optional plans of government authorized by this act shall be submitted in the following form or such part thereof as shall be applicable:

“Shall of the
(Insert name of plan)
Optional Third Class City Charter Law providing for
..... councilmen to be elected at
(insert number)
large be adopted by the city of?”
(insert name of city)

Section 215. If the charter commission shall recommend that the question of adopting one of the optional forms of government authorized by this act shall be submitted to the voters of the city, it shall be the duty of the city clerk, within five days thereafter, to certify a copy of the commission’s report to the county election board, which shall cause the question of adoption or rejection to be placed upon the ballot or voting machines at such time as the commission shall in its report specify. The commission may cause the question to be submitted to the people at the next general or municipal election, occurring not less than sixty days following the filing of a copy of the commission’s report with the county board of elections, or at a special election occurring not less than sixty days or more than one hundred twenty days after the filing of the report, at such time as the commission’s report shall direct. At such election, the question of adopting that form of government recommended by the charter commission shall be submitted to the voters of the city by the county board of elections in the same manner as other questions are submitted to the voters of a city under the provisions of the Pennsylvania Election Code. The charter commission shall frame the question to be placed upon the ballot as herein provided, and if it deems appropriate an interpretative statement to accompany such question.

Section 216. (a) No ordinance may be passed and no petition may be filed for the election of a charter

commission pursuant to section 201 of this act while proceedings are pending under any other petition or ordinance filed or passed under the authority of section 201, nor within four years after an election shall have been held pursuant to any such ordinance or petition passed or filed under section 201 hereof.

(b) For the purpose of this section, proceedings shall be considered as having started (i) 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; or (ii) in the case of a petition, as soon as it is properly signed by one-third of the number of registered voters required for such petition and written notice thereof filed in the office of the county board of elections and in the office of the city clerk, who shall cause the same to be immediately posted in a conspicuous place in said office, open to public inspection.

Section 217. Whenever the legally qualified voters of any city by a majority of those voting on the question vote in favor of adopting a change in their form of government pursuant to this act, the proposed charter shall take effect according to its terms and the provisions of this act.

Section 218. The voters of any city which has adopted an optional charter plan of government pursuant to this act may not vote on the question of adopting another form of government until four years after the optional charter plan became effective.

Section 219. For the purposes of this act, each of the optional forms of government provided by this act and each of said optional forms as modified by any available provisions concerning size of council is hereby declared to be a complete and separate form of government provided by the Legislature for submission to the voters of the city.

B. Abandonment of an Optional Plan and Reversion to a Prior Form.

Section 231. Any city may, subject to the provisions of section 233 of this act, abandon its optional plan and revert to the form of government under which it was governed immediately prior thereto, upon the filing of a petition and referendum, as follows:

(1) Upon petition to the county board of elections of the registered voters of the city, signed by the same number thereof as required in section 201, for an election to submit the question of abandonment and reversion as herein provided, the county board of elections shall provide for submission of the question to the voters of the city at the first general election to be held not less

be governed by the plan adopted and by the provisions of this act common to optional plans and by all applicable provisions of general law, subject to the transitional provisions of Article VI. of this act, unless and until the city should adopt another form of government as provided by law. The plan adopted and the provisions of this act common to optional plans shall become the organic law of the city at the time fixed by this act. So far as they are consistent with the grant of powers and the limitations, restrictions and regulations hereinafter prescribed, they shall supersede any existing charter, and all acts and parts of acts, local, special or general, affecting the organization, government and powers of such city to the extent that they are inconsistent or in conflict therein. All existing acts or parts of acts and ordinances affecting the organization, government and powers of the city not inconsistent or in conflict with the organic law so adopted shall remain in full force until modified or repealed as provided by law.

Section 302. The city clerk of the city shall forthwith cause the new charter as approved by the qualified electors to be recorded in the ordinance book of the city. He shall also file a certified copy thereof in the office of the Secretary of the Commonwealth.

Section 303. Each city governed by an optional form of government pursuant to this act shall, subject to the provisions of and limitations prescribed by this act, have full power to:

(1) Organize and regulate its internal affairs, and to establish, alter, and abolish offices, positions and employments and to define the functions, powers and duties thereof and fix their term, tenure and compensation;

(2) Adopt and enforce local police ordinances of all kinds and impose penalties of fine not exceeding three hundred dollars (\$300), or imprisonment for any term not exceeding ninety days, or both, for the violation thereof; to construct, acquire, operate or maintain any and all public improvements, projects or enterprises for any public purpose, subject to referendum requirements otherwise imposed by law, and to exercise all powers of local government in such manner as its governing body may determine;

(3) Sue and be sued, to have a corporate seal, to contract and be contracted with, to buy, sell, lease, hold and dispose of real and personal property, to appropriate and expend moneys, and to adopt, amend and repeal such ordinances and resolutions as may be required for the good government thereof;

(4) Exercise powers of condemnation, borrowing and taxation in the manner provided by general law applicable to cities of the third class.

Section 304. The general grant of municipal power contained in this article is intended to confer the greatest power of local self-government consistent with the Constitution of this State. Any specific enumeration of municipal powers contained in this act or in any other law shall not be construed in any way to limit the general description of power contained in this article, and any such specifically enumerated municipal powers shall be construed as in addition and supplementary to the powers conferred in general terms by this article. All grants of municipal power to cities governed by an optional plan under this act, whether in the form of specific enumeration or general terms, shall be liberally construed in favor of the city.

B. Limitations.

Section 305. The charter of any city adopted in accordance with this act shall not give any power or authority to diminish any rights or privileges of any present city employe in his pension or retirement system. Terms of office of a mayor, treasurer, controller or members of council elected to or holding office prior to adoption of a charter shall not be terminated prior to the time for which elected. No city shall exercise any powers or authority beyond the city limits except such as are conferred by an act of the General Assembly, and no city shall engage in any proprietary or private business except as authorized by the General Assembly. Notwithstanding the grant of powers contained in this act, no city shall exercise powers contrary to or in limitation or enlargement of powers granted to the city by acts of the General Assembly which are:

(1) Applicable to a class or classes of cities on the following subjects:

(i) Providing for the filing and collection of municipal and tax claims or liens and for the sale of real or personal property in satisfaction thereof.

(ii) Providing for the exercise of the power of eminent domain and the procedure for the condemnation of property for public purposes.

(iii) Providing for the assessment of damages and benefits for property taken, injured or destroyed.

(iv) Providing methods for the incurring or increasing of indebtedness.

(v) Providing for the annexation or exclusion or detachment of territory.

(vi) Regulating public schools.

(vii) Providing for the personal registration of electors.

(viii) Limiting rates and fixing subjects of taxation.

- (ix) Providing for the assessment of real or personal property and persons for taxation purposes.
- (x) Relating to civil service.
- (xi) Relating to public health.
- (2) Applicable in every part of the Commonwealth.
- (3) Applicable to all the cities of the Commonwealth.

ARTICLE IV.

MAYOR-COUNCIL PLAN A.

A. Form of Government.

Section 401. The form of government provided in this article shall be known as the "mayor-council plan A" and shall, together with Articles III. and VI., govern any city, the voters of which have adopted it pursuant to this act.

Section 402. Each city hereunder shall be governed by an elected council, an elected mayor and an elected controller and by such other officers and employes as may be duly appointed pursuant to this article, general law or ordinance.

B. Elected Officials.

Section 403. The mayor and the controller shall be elected by the voters of the city at a regular municipal election, and shall serve for a term of four years beginning on the first Monday of January next following his election.

Section 404. The council shall consist of five members, unless pursuant to the authority granted under section 213 of this act, the city shall be governed by a council of seven or nine members. Members of the council shall be elected at large by the voters of the city at a regular municipal election and shall serve for a term of four years, except as hereinafter provided for those first elected beginning on the first Monday of January next following their election.

Section 405. At the first municipal election following the adoption by a city of this plan, councilmen shall be elected and shall serve for the terms as provided in section 622 of this act.

Section 406. (a) If a vacancy exists in the city council, the city council shall, by a majority of its remaining members, fill such vacancy, within thirty days thereafter, by electing a qualified person to serve until that first Monday of January when his successor who shall have been elected by the qualified electors at the next municipal election, occurring at least thirty

days after such vacancy exists, is duly sworn into office for the remainder of the term of the person originally elected to said office.

In case vacancies should exist whereby the offices of a majority or more members of the city council become vacant, the remaining members shall fill such vacancies, one at a time, giving each new appointee such reasonable notice of his appointment as will enable him to meet and act with the then qualified member or members of the city council in making further appointments until a bare majority of members of city council have been qualified, whereupon the said members shall fill the remaining vacancies at a meeting attended by the said majority members of city council, such appointees to receive a majority of the votes of the members present at any such meeting. The person or persons selected to fill such vacancy or vacancies shall hold their offices as herein provided.

If, by reason of a tie vote, or otherwise, such vacancy shall not have been filled by the remaining members of city council within the time as limited herein, the court of common pleas, upon the petition of ten or more qualified electors, shall fill such vacancy by the appointment of a qualified person, for the portion of the unexpired term as above provided.

If, at any time, vacancies should occur or exist in the membership of all members of city council, the court of common pleas shall appoint a city council, of persons properly qualified, who shall serve as herein provided.

(b) If a vacancy occurs in the office of mayor or city controller, the city council shall fill such vacancy, within thirty days thereafter, by choosing a mayor or a city controller, as the case may be, to serve until his successor is elected by the qualified electors at the next municipal election, occurring at least two hundred days after such vacancy occurs, and is duly sworn into office. The person so elected shall serve from the first Monday of January next succeeding his election for the remainder of the term of the person originally elected to such office.

If, by reason of a tie vote or otherwise, a vacancy in the office of mayor or controller shall not have been filled by council within the time as limited herein, the court of common *pleas, upon petition of ten or more qualified electors, shall fill such vacancy by the appointment of a qualified person for the portion of the unexpired term as herein provided.

* "please" in original.

C. Council.

Section 407. The legislative power of the city shall be exercised by the city council, except as may be otherwise provided by general law.

Section 408. On the first Monday of January following the regular municipal election, the members of council shall assemble at the usual place of meeting and organize and elect a president of the council from among its members, who shall preside at its meetings and perform such other duties as council may prescribe. In the absence of the president, the council shall elect a temporary presiding officer.

Section 409. The council, in addition to such other powers and duties as may be conferred upon it by this charter or otherwise by general law, may require any city officer, in its discretion, to prepare and submit sworn statements regarding his official duties in the performance thereof, and may otherwise investigate the conduct of any department, office or agency of the city government.

Section 410. (a) The council shall appoint a city clerk, who shall serve as clerk of the council, keep its minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this act requires, and perform such functions as may be required by law. The city clerk shall, prior to his appointment, have been qualified by training or experience to perform the duties of the office.

(b) The council may provide for the manner of appointment of a city solicitor, any planning board, zoning board of adjustment or personnel board in the city, and may create commissions and other bodies with advisory powers.

D. Mayor and Administration.

Section 411. The executive power of the city shall be exercised by the mayor.

Section 412. The mayor shall enforce the charter and ordinances of the city and all general laws applicable thereto. He shall, annually, report to the council and the public on the work of the previous year and on the condition and requirements of the city government and shall, from time to time, make such recommendations for action by the council as he may deem in the public interest. He shall supervise all of the departments of the city government, and shall require each department to make an annual and such other reports of its work as he may deem desirable.

Section 413. (a) Ordinances adopted by the council shall be submitted to the mayor and he shall, within ten

days after receiving any ordinance, either approve the ordinance by affixing his signature thereto, or return it to the council by delivering it to the city clerk together with a statement setting forth his objections thereto or to any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return an ordinance to the council within ten days after it has been presented to him, or unless council upon reconsideration thereof, on or after the third day following its return by the mayor, shall by a vote of two-thirds of the members resolve to override the mayor's veto.

(b) The mayor may attend meetings of council and may take part in discussions of council but shall have no vote except in the case of a tie on the question of filling a vacancy in the council, in which case he may cast the deciding vote.

(c) All bonds, notes, contracts and written obligations of the city shall be executed on its behalf by the mayor and the controller.

Section 414. The mayor shall designate any department head, or the city clerk, to act as mayor whenever the mayor shall be prevented, by absence from the city, disability or other cause, from attending to the duties of his office. During such time the person so designated by the mayor shall possess all the rights, powers, and duties of mayor. Whenever the mayor shall have been unable to attend to the duties of his office for a period of sixty consecutive days for any of the above stated reasons, a member of council shall be appointed by the council as acting mayor, who shall succeed to all the rights, powers and duties of the mayor or the then acting mayor.

Section 415. (a) The city shall have a city treasurer who shall be appointed by the mayor with the advice and consent of the council. He shall perform such functions and duties and have such powers relating to the collection, receiving, safe keeping and payment over of public moneys including city, county, institution district and school district taxes as provided by general law and shall have such other functions, powers and duties as may be assigned to him by council.

(b) The city may have a department of administration and shall have such other departments, not exceeding a total of nine, as council may establish by ordinance. All of the administrative functions, powers and duties of the city, other than those vested in the office of the city clerk, city treasurer and city controller, shall be allocated and assigned among and within such departments.

(c) Each department shall be headed by a director who shall be appointed by the mayor with the advice and

consent of the council. Each department head and the city treasurer shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor.

(d) The mayor may, in his discretion, remove the city treasurer and any department head after notice and an opportunity to be heard. Prior to removing a treasurer or department head, the mayor shall first file written notice of his intention with the council, and such removal shall become effective on the twentieth day after the filing of such notice.

(e) Subject to the provisions of Article XLIV. of the act of June 23, 1931 (P. L. 932), known as the "Third Class City Code" and the provisions of the act of May 31, 1933 (P. L. 1108), entitled "An act providing for the appointment, promotion, reduction, removal and reinstatement of paid officers, firemen and employes of fire departments and of fire alarm operators and fire box inspectors in the bureaus of electricity in cities of the second and third class; defining the powers and duties of civil service commissions for such purposes; and fixing penalties," department heads shall appoint subordinate officers and employes within their respective departments and may, with approval of the mayor, remove such officers and employes.

Section 416. Where a department of administration is established, it shall be headed by a director who shall be known and designated as business administrator. He shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the city or State, but during his tenure of office he may reside outside the city only with the approval of council. He shall have, exercise and discharge the functions, powers and duties of the department. The department, under the direction and supervision of the mayor, shall:

- (1) Assist in the preparation of the budget;
- (2) Administer a centralized purchasing system; and
- (3) Perform such other duties as council may prescribe.

E. Budget and Control.

Section 417. The city budget shall be prepared by the mayor with the assistance of the business administrator or other officer designated by the mayor. Not later than the month of November, the mayor shall require all department heads to submit requests for appropriations for the ensuing budget year, and to appear

before the mayor or the business administrator or other officer at public hearings, which shall be held during that month, on the various requests.

Section 418. At the last stated meeting in November, the mayor shall submit to council his recommended budget in the form of an ordinance, together with such explanatory comment or statement as he may deem desirable. The budget shall be in such form as is required by law for city budgets, and shall in addition have appended thereto a detailed analysis of the various items of expenditure and revenue. Council may reduce any item or items in the mayor's budget by a vote of a majority of the council, but an increase in any item or items therein shall become effective only upon an affirmative vote of two-thirds of the members of council.

Council shall, upon passing the proposed budget ordinance on first reading, fix a date for adoption thereof, which shall be not later than the 31st day of December immediately following.

Section 419. The council shall, where practicable, provide for the maintenance of a system of work programs and quarterly allotments, for operation of the budget. It shall be the duty of the officer or department administering any such program to develop and report appropriate unit costs of budgeted expenditures.

Section 420. The council shall provide by ordinance for the exercise of a control function, in the management of the finances of the city, by the city controller. The control function shall include provision for an encumbrance system of budget operation, for expenditures only upon written requisition, for the pre-audit by the city controller of all claims and demands against the city prior to payment, and for the control of all payments out of any public funds by individual warrants for each payment to the official having custody thereof.

Section 421. The council shall provide for annual post audits of all accounts by an outside certified public accountant to be appointed by council.

ARTICLE V.

COUNCIL-MANAGER PLAN.

A. Form of Government; Election of Councilmen and Controller.

Section 501. The form of government provided in this article shall be known as the "council-manager plan" and shall, together with articles III. and VI., govern any city, the voters of which have adopted this plan pursuant to this act.

Section 502. Each city under this article shall be governed by an elected council, an elected controller, an appointed city manager and an appointed city treasurer, and by such other officers and employes as may be duly appointed pursuant to this article, general law or ordinance.

Section 503. The controller shall be elected by the voters of the city at a regular municipal election, and shall serve for a term of four years beginning the first Monday of January next following his election.

Section 504. The city council shall consist of five members unless, pursuant to the authority granted under section 213 of this act, the city shall be governed by a council of seven or nine members. Members of the city council shall be elected, at large, by the voters of the city at a regular municipal election, and shall serve for a term of four years, except as hereinafter provided for those first elected, beginning on the first Monday of January next following their election.

Section 505. At the first municipal election following the adoption by a city of this charter plan, councilmen shall be elected and shall serve for the terms as provided in section 622 of this act.

Section 506. (a) If a vacancy exists in the city council, council shall, by a majority of its remaining members, fill such vacancy within thirty days thereafter by electing a qualified person to serve until that first Monday of January, when his successor who shall have been elected by the qualified electors at the next municipal election occurring at least thirty days after such vacancy exists, is duly sworn into office for the remainder of the term of the person originally elected to said office.

In case vacancies should exist whereby the offices of a majority or more of the members of the city council become vacant, the remaining members shall fill such vacancies, one at a time, giving each new appointee such reasonable notice of his appointment as will enable him to meet and act with the then qualified member or members of the city council in making further appointments until a bare majority of members of city council have been qualified, whereupon said members shall fill the remaining vacancies at a meeting attended by the said members, such appointees to receive a majority of the votes of the members present at such meeting. The person or persons selected to fill such vacancy or vacancies shall hold their offices as herein provided.

If, by reason of a tie vote or otherwise, such vacancy shall not have been filled by the remaining members of city council within the time as limited herein, the court of common pleas, upon the petition of ten or more

qualified electors, shall fill such vacancy by the appointment of a qualified person for the portion of the unexpired term as above provided.

If, at any time, vacancies should occur or exist in the membership of all members of city council, the court of common pleas shall appoint a city council of persons properly qualified, who shall serve as herein provided.

(b) If a vacancy occurs in the office of city controller, the city council shall fill such vacancy, within thirty days thereafter, by choosing a city controller to serve until his successor is elected by the qualified electors at the next municipal election, occurring at least two hundred days after such vacancy occurs, and is duly sworn into office. The person so elected shall serve from the first Monday of January next succeeding his election for the remainder of the term of the person originally elected to such office.

If, by reason of a tie vote or otherwise, such vacancy shall not have been filled by council within the time as limited herein, the court of common pleas, upon petition of ten or more qualified electors, shall fill such vacancy by the appointment of a qualified person for the portion of the unexpired term as herein provided.

B. Council.

Section 507. On the first Monday of January following the regular municipal election, the members of the city council shall assemble at the usual place of meeting and organize and elect one of their number as mayor. The mayor shall be chosen by ballot by majority vote of all members of the city council. If the members shall be unable, within five ballots to be taken with two days of said organization meeting, to elect a mayor, then the member who in the election for members of the city council received the greatest number of votes shall be the mayor. Should such person decline to accept the office, then the person receiving the next highest vote shall be the mayor, and so on, until the office is filled.

Section 508. The mayor shall preside at all meetings of the city council and shall have a voice and vote in its proceedings. All bonds, notes, contracts and written obligations of the city shall be executed on its behalf by the mayor and controller or, in the event of the mayor's inability to act, by the controller and such councilman as the city council shall designate to act as mayor during his absence or disability. The powers and duties of the mayor shall be only such as are expressly conferred upon him by this article.

Section 509. All powers of the city and the determination of all matters of policy shall be vested in the city council, except as otherwise provided by this act or by general law.

Section 510. The city council shall appoint a city manager, a city treasurer and a city clerk. The office of city manager and city clerk may be held by the same person. The council may provide for the manner of appointment of a city solicitor, any planning board, zoning board of adjustment or personnel board in the city, and may create commissions and other bodies with advisory powers.

Section 511. The city council shall continue or create, and determine and define, the powers and duties of such executive and administrative departments, boards and offices, in addition to those provided for herein, as it may deem necessary for the proper and efficient conduct of the affairs of the city, including the office of deputy manager. Any department, board or office so continued or created may, at any time, be abolished by the city council.

Section 512. It is the intention of this article that the city council shall act in all matters as a body, and it is contrary to the spirit of this article for any of its members to seek individually to influence the official acts of the city manager, or any other officer, or for the council or any of its members to direct or request the appointment of any person to, or his removal from office, or to interfere in any way with the performance by such officers of their duties. The council and its members shall deal with the administrative service solely through the manager and shall not give orders to any subordinates of the manager, either publicly or privately. Nothing herein contained shall prevent the city council from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any officer or department, or any matter relating to the welfare of the city, and delegating to such committees or commissions such powers of inquiry as the city council may deem necessary. Any councilman violating any of the provisions of this section is guilty of misdemeanor in office, and upon conviction thereof in a court of competent jurisdiction, shall be disqualified and forfeit his office as councilman.

C. City Manager.

Section 513. The city manager shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted

practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the city or State, but during his tenure of office he may reside outside the city only with the approval of council. The city manager shall not hold any elective city office.

Section 514. The city manager shall hold office for an indefinite term, and may be removed by a majority vote of the council. At least thirty days before such removal shall become effective, the council shall, by a majority vote of its members, adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution, the council may suspend the manager from duty, but shall, in any case, cause to be paid him forthwith any unpaid balance of his salary and his salary for the next three calendar months following adoption of the preliminary resolution.

Section 515. The manager may designate a qualified administrative officer of the city to perform his duties during his temporary absence or disability. In the event of his failure to make such designation, or if the absence or disability continues more than thirty days, the council may, by resolution, appoint an officer of the city to perform the duties of the manager during such absence or disability until he shall return or his disability shall cease.

Section 516. The city manager shall:

- (1) Be the chief executive and administrative official of the city;
- (2) Execute all laws and ordinances of the city;
- (3) Appoint and have power to remove a deputy manager, if one be authorized by the council, all department heads and all other officers, subordinates, and assistants for whose selection or removal no other method is provided in this article, except that he may authorize the head of a department to appoint and remove subordinates in such department, supervise and control his appointees, and report all appointments or removals at the next meeting thereafter of the city council;
- (4) Negotiate contracts for the city, subject to the approval of the city council, make recommendations concerning the nature and location of municipal improvements, and execute municipal improvements as determined by the city council;

(5) See that all terms and conditions imposed in favor of the city or its inhabitants in any statute, public utility franchise or other contract are faithfully kept and performed, and upon knowledge of any violation, call the same to the attention of the city council;

(6) Attend all meetings of the city council with the right to take part in the discussions, but without the right to vote;

(7) Recommend to the city council for adoption such measures as he may deem necessary or expedient, keep the council advised of the financial condition of the city, make reports to the council as requested by it, and at least once a year make an annual report of his work for the benefit of the council and the public;

(8) Investigate at any time the affairs of any officer or department of the city which is under his jurisdiction;

(9) Perform such other duties as may be required of the city manager by ordinance or resolution of the city council;

(10) The city manager shall be responsible to the council for carrying out all policies established by it and for the proper administration of all affairs of the city within the jurisdiction of the council.

Section 517. The city budget shall be prepared by the city manager. Not later than the month of November of each year, the city manager shall require all department heads to submit requests for appropriations for the ensuing budget year.

Section 518. At the last stated meeting in November, the city manager shall submit to council his recommended budget in the form of an ordinance, together with such explanatory comment or statement as he may deem desirable. The budget shall be in such form as is required by law for city budgets, and shall in addition have appended thereto detailed analysis of the various items of expenditure and revenue. Public hearings shall be held on the recommended budget before action thereon is taken by council. *Council shall upon passing the proposed budget ordinance on first reading fix a date for adoption thereof which shall be not later than the 31st day of December immediately following.

The council shall, where practicable, provide by ordinance for the operation of a system of work programs and quarterly allotments for operation of the budget and for development and reporting of appropriate unit costs of budgeted expenditures.

Section 519. The council shall provide by ordinance for the exercise of a control function, in the management of the finances of the city, by the city controller. The

* "Council" omitted in original.

control function shall include provision for an encumbrance system of budget operation, for expenditures only upon written requisition, for the pre-audit by the city controller of all claims and demands against the city prior to payment, for the control of all payments out of any public funds by individual warrants for each payment to the official having custody thereof.

Section 520. The council shall provide for annual post audits of all accounts by an outside certified public accountant to be appointed by council.

Section 521. Any provision of general law conferring the appointing power or other power upon the mayor or other executive head of the city shall be construed as meaning the city manager in a city governed under this article, and the appointments or the power exercised by the city manager in accordance with such provision shall be classified and given the same force and effect as if executed by the official named therein.

D. City Treasurer.

Section 522. The city treasurer shall have all the powers, duties and functions relating to the collection, receiving, safekeeping, accounting for, and payment over of public moneys including county, city, institution district and school district taxes, as provided by general law, and shall perform such other functions and duties as may be required of him by the city council.

ARTICLE VI.

GENERAL PROVISIONS COMMON TO OPTIONAL PLANS.

A. Officers and Employes.

Section 601. No officer or employe elected or appointed in any city shall be interested, directly or indirectly, in any contract or job for work or materials or the profits thereof, to be furnished or performed for the city, and no such officer or employe shall be interested, directly or indirectly, in any contract or job for work or materials or the profits thereof, to be furnished or performed for any person operating any interurban railway, street railway, bus line, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of such city.

Section 602. No officer or employe shall accept or receive, directly or indirectly, from any person operating within the territorial limits of a city any interurban railway, bus line, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange or other business using or operating under a public franchise, any frank, free pass,

free ticket or free service, or accept or receive, directly or indirectly, from any person, any other service upon terms more favorable than is granted to the public generally, except that such prohibition of free transportation shall not apply to policemen or firemen in uniform. Nor shall any free service to the city officials heretofore provided by any franchise or ordinance be affected by this section.

Section 603. No candidate for office, appointment or employment and no officer, appointee or employe in any city shall, directly or indirectly, give or promise any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person, under the penalty of being disqualified to hold the office or employment to which he may be or may have been elected or appointed.

Section 604. Any person convicted of a crime or offense involving moral turpitude shall be ineligible to assume any city office, position or employment in a city governed pursuant to this act, and upon conviction thereof, while in office, shall forfeit his office. Any person who shall violate any of the provisions of sections 601, 602 *or 603 of this act shall be guilty of a misdemeanor in office, and upon conviction thereof in a court of competent jurisdiction, shall forfeit his office.

Section 605. If any person hereafter elected or appointed to any office or position in a city governed under this act shall, after lawful notice or process, wilfully refuse or fail to appear before any court, any legislative committee, or the Governor, or having appeared shall refuse to testify or to answer any question regarding the property, government or affairs of the city, or regarding his nomination, election, appointment or official conduct on the ground that his answer would tend to incriminate him, or shall refuse to waive immunity from **prosecution on account of any such matter in relation to which he may be asked to testify, may be removed from office by the council of the city in its discretion. Any person removed from office pursuant to this section shall not thereafter be eligible for election or appointment to any office or employment in such city.

B. Legislation by Council.

Section 606. The council shall, by ordinance or resolution, designate the time of holding regular meetings which shall be at least monthly. The mayor or the president of council, as the case may be, may and, upon writ-

* "or" omitted in original.

** "prosecution" in original.

ten request of a majority of the members of the council, shall call a special meeting of the council. In the call, he shall designate the purpose of the special meeting and no other business shall be considered. All meetings of the council shall be open to the public. The city clerk shall keep a journal of its proceedings and record the minutes of every meeting.

Section 607. (a) Council shall determine its own rules of procedure, not inconsistent with ordinance or statute. A majority of the whole number of members of the council shall constitute a quorum, but no ordinance shall be adopted by the council without the affirmative vote of a majority of all the members of the council.

(b) Each ordinance or resolution shall be introduced in written or typewritten form, and shall be read and considered as provided by general law. The vote upon every motion, resolution or ordinance shall be taken by roll call and the yeas and nays shall be entered on the minutes. The minutes of each meeting shall be signed by the officer presiding at such meeting and by the city clerk.

(c) The compensation of the mayor, councilmen and department heads shall be fixed by the council immediately after its organization.

Section 608. (a) Except as may otherwise be provided in this act all ordinances shall be adopted and published in the manner required by general law: Provided, however, That any ordinance may incorporate by reference any standard technical regulations or code, official or unofficial, which need not be so published whenever ten copies of said regulations or code have been placed on file in the office of the city clerk and in the office of the body or department charged with the enforcement of said ordinance for the examination of the public so long as said ordinance is in effect.

(b) No ordinance other than the local budget ordinance shall take effect less than twenty days after its final passage by council and approval by the mayor where such approval is required, unless the council shall adopt a resolution declaring an emergency and at least two-thirds of all the members of the council vote in favor of such resolution.

Section 609. The city clerk shall record all ordinances and resolutions adopted by council and at the close of each year, with the advice and assistance of the city attorney, shall bind, compile or codify all the ordinances and resolutions, or true copies thereof, of the city which then remain in force and effect. He shall also properly index the record books, compilation or codification of ordinances and resolutions.

Section 610. No rule or regulation made by any department, officer, agency or authority of the city, except such as relates to the organization or internal management of the city government or a part thereof, shall take effect until it is filed either with the city clerk or in such other manner as may be provided by ordinance. The council shall provide for the prompt publication of such rules and regulations.

C. Transition to Optional Charter Plan.

Section 620. (a) Whenever the electors of a city adopt any of the optional charter plans provided by this act at any election for that purpose, such city shall be governed under the provisions of such charter plan and this act from the first Monday in January following the next succeeding municipal election.

(b) Whenever the electors of a city vote to discontinue such optional plan at any election for that purpose, the city shall cease to be governed by the provisions of such charter plan and this act on the first Monday of January following the next succeeding municipal election.

Section 621. (a) The mayor, the members of council, the treasurer and the controller in office at the time of the adoption of any charter plan provided by this act shall continue in office until the expiration of their terms and shall receive the compensation provided by law at that time. Any such officer may, by writing filed with the city treasurer, direct that any portion of his compensation be returned to the city treasury.

(b) If an elected city treasurer or city controller is in office at the time of the adoption of an optional charter plan under the provisions of this act, a treasurer or controller, as the case may be, shall not be appointed or elected to take office until after the resignation, death, removal or expiration of the term of said treasurer or controller.

Section 622. (a) At the municipal election next succeeding the adoption of one of the optional charter plans provided for in this act, the number of councilmen prescribed by the terms of the charter less the number of councilmen then in office whose terms do not expire on the first Monday of January next following, shall be elected. For the purpose of this section, an existing mayor shall be considered as a member of council, and after the new charter plan goes into effect, his duties shall be only those of a member of council as prescribed

by the new charter plan and a new mayor shall be elected at this election or appointed as provided by the plan adopted.

(b) At such election, if two, three or four councilmen are elected, they shall each serve for terms of four years. If five are elected, the four candidates receiving the highest number of votes shall serve for terms of four years, and the candidate receiving the next highest number of votes shall serve for a term of two years. If six or seven are elected, the five candidates receiving the highest number of votes shall serve for terms of four years, and the one or two candidates, as the case may be, receiving the next highest number of votes shall serve for a term of two years. Thereafter, all councilmen shall be elected for terms of four years.

(c) If any vacancies in council occurring by reason of resignation, death or removal shall exist ninety days or more before such election, they shall be filled for the remainder of the term of the person originally elected to that office.

Section 623. Upon the effective date of an optional charter adopted pursuant to this act, all ordinances and resolutions of the city to the extent that they are not inconsistent with the provisions of this act shall remain in full force and effect until modified or repealed as provided by law.

Section 624. (a) On the effective date of an optional plan adopted pursuant to this act, all appointive offices then existing in such city shall be abolished and the terms of all appointed officers shall immediately cease and determine: Provided, That nothing in this section shall be construed to abolish the office or terminate the terms of office of any alderman or constable or of any official or employe now *protected by any tenure of office or civil service law, or of any policeman or fireman, whether or not protected by a tenure of office law.

(b) Provision for officers and for the organization and administration of the city government under the optional plan may be made by resolution pending the adoption of ordinances, but any such resolution shall expire not later than sixty days after the effective date of the optional plan.

Section 625. All actions and proceedings of a legislative, executive or judicial character, which are pending upon the effective date of an optional plan adopted

* "protected" in original.

pursuant to this act, may continue and the appropriate officer or employe under such optional plan shall be substituted for the officer or employe theretofore exercising or discharging the function, power or duty involved in such action or proceeding.

Section 626. All acts and parts of acts are repealed in so far as they are inconsistent herewith.

Section 627. This act shall take effect immediately.

APPROVED—The 15th day of July, A. D. 1957.

GEORGE M. LEADER

No. 400

AN ACT

Creating a temporary State commission to study the Constitution of the Commonwealth to recommend possible amendment or revision; prescribing the powers and duties of the Commission; and making an appropriation.

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

Commission on
Constitutional
Revision.

Section 1. A temporary State commission, to be known as the "Commission on Constitutional Revision," is hereby created. The commission shall consist of fifteen citizens of this Commonwealth, of whom five shall be appointed by the Governor, five shall be appointed by the Speaker of the House of Representatives, and five shall be appointed by the President pro tempore of the Senate.

Creation and
membership.

Section 2. The members of the commission shall elect from its membership a chairman and a vice-chairman. Vacancies in the membership of the commission shall be filled in the manner provided for original appointments.

Officers and
vacancies.

Section 3. The commission shall study the Constitution of the Commonwealth, as amended, in the light of contemporary conditions and the anticipated problems and needs of the people of the Commonwealth. If the commission finds change in the constitution advisable, it shall consider the best means of effecting such change. If the commission determines that the best means is by amendment, it shall so recommend and its report shall contain drafts of the proposed amendment or amendments. If the commission determines that the best means is by general revision, it shall collect, compile and analyze such information as it may deem useful to the delegates at a constitutional convention, and shall make any recommendations relating to the substance of revision as it may consider appropriate.

Duty of com-
mission.