

Home Rule in Pennsylvania

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What is Home Rule?

- Home Rule authorizes the right of counties and municipalities to adopt home rule charters and exercise home rule powers in order to recognize local governments to increase effectiveness, efficiency, responsiveness and public participation.
- The basic concept of home rule is to transfer authority in municipal affairs from state law (municipal codes) to a local charter adopted and amended by the voters.
- Charters are subject to restrictions found in US and PA constitutions and can act anywhere except where they are specifically limited by State law.

PA Constitution and Home Rule Law

Act 62 of 1972 (53 Pa.C.S., § 29-31) *(Outgrowth of 67-68 Constitutional Convention)*

- “Municipalities shall have the right and power to frame and adopt home rule charters.”
- “A municipality which has a home rule charter may exercise any power to perform any function not denied by this Constitution, by its home rule charter or by the General Assembly at any time.”

Home Rule Law Establishes

1. Procedure for adoption of a home rule charter through election of a Government Study Commission (Commission)-charged with studying the existing form of government and exploring alternatives
2. If Commission decides to recommend Home Rule, a charter is drafted and presented to voters for their approval
3. Adoption of home rule charter comes only with the approval of a majority voting in a referendum

****Optional plans of government are adopted through the same Commission process, except the Commission selects one of the optional plans provided in Section 2971-3171 of the Law.****

Optional Plans of Government

Executive-Council Plans

- Executive (Mayor)-Council Plan A
- Executive (Mayor)-Council Plan B (mandatory dept. of administration)
- Executive (Mayor)-Council Plan C (mandatory managing director)

“Small Municipality” Plan

Mayor-Council of various sizes

Single Council-Manager Plan

Optional County Plan

Mayor-Council Plan

Municipalities Adopting Optional Plans Gain

- No home rule powers
- Remain subject to the provisions in the municipal code, except where it is superseded by structural provisions of the optional plan

Beginning Government Study Commission Process

2 methods for placing the question of having a government study commission on the ballot:

1. An ordinance of the municipal governing body
2. A petition of the registered voters of the municipality

Home Rule Law contains 3 questions:

- “Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality; to consider the advisability of the adoption of an optional plan form of government and to recommend whether or not an optional plan of government should be adopted?”
- “Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of a home rule charter; and if advisable, to draft and to recommend a home rule charter?”
- “Shall a government study commission of (seven , nine or eleven) members be elected to study the existing form of government of the municipality; to consider the advisability of the adoption of an optional form of government or a home rule charter; to recommend the adoption of an optional form of government, or to draft and recommend a home rule charter?”

Role of Commission

Study Phase

- Conduct an in-depth study of current municipal government
- Probe deeply into procedures and inter-relationships of government to identify weaknesses or defects-can hire consultants to gather information
- Look outside municipality to discover practices that might be applied and adopted

Deliberation Phase

- Based on review and study, develop an arrangement for a better government
- Write elements in a clear, logical and consistent manner to form the Charter
- Conduct affairs in a manner that will win the respect of the citizens and educate and stimulate citizen groups to adopt Charter

Organizing the Commission

Oath

- Sworn in within 10 days after official certification of election
- Organize and hold first meeting within 15 days of certification of election
- Advertise meeting

Elect Officers

- Chair, Vice Chair, Secretary, Treasurer

Procedures – Roberts Rules

Vacancies

- If vacancy arises, must fill with a qualified voter
- May appoint non-voting alternatives to attend meetings who can fill a vacancy

Commission Meetings

Sunshine Law

- Publically advertise all meetings
- Minutes must be taken
- All records, tapes, minutes and written discussion must be turned over to municipal secretary
- Hearing transcripts and reports must be kept for 5 years

Public Hearing

- 3 Occasions arise for public hearing
 - Gain citizen views on existing government structure and generate public support and attention to Commission's activities
 - When Commission is ready to make a decision on nature of its recommendation: home rule, optional plan or no change
 - Formulation of the final recommendation

Committees and Work Schedule

3 Broad Categories of Committees

- **Administrative:** operations of the Commission in areas such as program, budget, personnel, auditing and PR
- **Research:** study governmental forms and options
- **Charter Drafting:** responsible for furnishing initial drafts
- Permanent or temporary basis
- Other committees: finance, bylaws, study of current government

Work Schedule

- At first meeting, plot a tentative schedule of work
- Following a schedule will keep Commission on track to achieving goals
- Time limits are established in the Home Rule Law
- Schedules must fit within deadlines

Work Schedule for Home Rule

- 18 months to Complete
- 7 step process:
 - Orientation: organization meeting, learning powers/duties, working on budget and planning work
 - Research: study current form of government and alternatives
 - Decision Making: home rule, optional plan or no change
 - Drafting Charter (if choosing home rule)
 - Review and Public Discussion on Draft Charter
 - Writing Final Report
 - Voter Education

Work Schedule for Optional Plan

- 9 Months to Complete Plan
 - First 2 months: review existing governmental structure and gather information on areas needing improvement
 - Next few months: consider each of the optional plans and weigh desirability for community
 - 7th month: should have completed major portion of review and be able to make recommendations to begin drafting the report

Finances

- Local governing body is responsible for funding Commission
 - Need to create a budget and present to governing body to get agreement on final amount
 - Will most likely spread over 2 fiscal years
- Members serve without compensation
 - Reimbursement for necessary expenses (travel, workshops, etc.)
- Major Expenses: secretarial assistance, legal fees and printing costs
- Minor Expenses: office supplies, postage, phone and advertising
- Can accept donated services (room for meeting, office supplies, etc.)
- Keep strict accounting of funds
 - Final report needs to include a comprehensive list of expenses and any anticipated expenses (report is filed prior to commission being discharged)

Public Relations (PR)

- Critical to involve the public in the Commission's process
- Need to garner public input and keep the public up to date with what the Commission is doing
- Encourage public attendance at meetings
 - Advertise in local papers & send request to community organizations
- Questionnaires/Surveys
 - Help to gather public opinion, public interest
 - Individual interviews

Final Report

- Summation of Commission's work
- Important for 2 reasons
 - Reports the activities of the Commission to the people
 - Informs voters on the choices they have to make
- Needs to be clear, logical, brief and readable
- Should provide voters with sufficient knowledge to make an informed decision

Contents of Final Report

- The report should include:
 - Table of Contents
 - Cover Letter
 - Summary of recommendations, date of referendum and date new government form would take place if so voted
 - Purpose of the Commission
 - Organization and activities of the Commission
 - Summary of findings on present form of government
 - Organizational charts on present government and recommended structure
 - Explanation of recommended form of government and advantages
 - Survey of areas to remain unchanged under new form
 - Recommendation to establish a transition committee
 - Relevant extracts from Home Rule Law

Other Recommendations and Amending Final Report

Transition Committee

- Final report can suggest of the formation of a transition committee
- Will help with the formation of new government
- Can be used even if voters do not approve any changes to current government structure
 - May suggest hiring a professional manager, better communication, personnel policies, adopting administrative codes and long-range capital planning in the budgeting process

Amendments to Final Report

- Commission is not discharged until after the referendum vote is made
- At any time up until the 60 days prior to the election, the commission can modify or change any recommendation
 - Need to publish an amended report

Discharge of Commission

- If Commission recommends no change:
 - Commission can disband after filing final financial report
- If Commission recommends change:
 - Not discharged until after referendum vote
 - Before they discharge, need to file final paperwork, financial reports, records, tapes, minutes and written documents to the municipal clerk

Home Rule Charter

- Once adopted, the charter becomes the “organic law” of the municipality and supersedes any restrictions in the municipal codes.
- The Charter must follow restrictions and guidelines as stated in **53 Pa.C.S., § 2962.**
- Main restriction: must follow any law that is applicable in “every part of the Commonwealth.”
- A home rule municipality may “adopt” portions of the municipal codes-not obligated to do so.
- As is stated in 2962, a home rule municipality cannot create new subjects of taxation that they did not have before.

Home Rule Parameters

- Laws that are uniform & applicable in every part of Commonwealth
 - **Labor Laws** – Act 205/Act 111
 - **Environmental Laws**
 - **Sunshine Act/Open Records Act**
 - **Crimes Code**
 - **Vehicle Code**
- Laws that expressly pre-empt home rule powers or include home rule municipalities within their provisions
 - **Municipalities Planning Code**
- Laws that directly implement constitutional provisions
 - Many overlap laws that are uniform and applicable

Home Rule Parameters

Specific Restrictions (*53 Pa.C.S., § 2962*)

- Boundary Change
- Elections
- Subjects of taxation
- Non-resident taxation
- Eminent Domain
- Regulation of business
- Public Schools

Home Rule Considerations

Forms of Government

- Mayor – Council
- Council – Manager
- Commission
- Blends

Structure of Government

- Membership (number – at large/districts)
- Composition
- Vacancies

Considerations: Operations, Procedures and Actions

Operation and Procedures of Council

- Meetings
- Public Hearings
- Records
- Operating Rules

Legislative Actions

- Form of action by governing body
- Publication and effective dates
- Ordinance codification

Considerations: Elected and Appointed Officials

Elected Officials

- Election and Term
- Salary
- Qualifications
- Powers and Duties

Appointed Officials

- Appointment and Compensation
- Qualifications
- Removal
- Powers and Duties

Considerations

Personnel

- Personnel Policy
- Recruitment/Selection
- Civil Service
- Veterans Preference

Considerations-Administrative and Fiscal

Departments

- Administrative
- Finance
- Public Safety: Police/Fire
- Public Works: Streets/Utilities
- Recreation
- Community/Economic Development

Budget and Fiscal

- Operating Budget
- Capital Budget
- Taxation
- Purchasing/Contracts
- Audit

Considerations-Taxation

Taxation

- Real Estate Code Limitations (General Purposes)
 - Third Class City Code – 25 mills
 - Borough/First Class Twp Code – 30 mills
 - Second Class Twp Code – 14 mills
 - 5 Additional mills with Court approval
 - Limited special purpose millage
- *Taxes can exceed limitations on residents***

Act 511 Limitations

- Earned Income Tax – 1%
- Occupation Privilege Tax \$10/employee
- Local Services Tax (LST)

Home Rule Resources of Information

- Governor's Center for Local Government Services – Home Rule in PA
- Other Home Rule Municipalities
- Pennsylvania Municipal League - Home Rule Advocacy Committee
- League of Woman Voters
- Government Finance Officers Association (GFOA)
- Colleges and Universities
- International City/County Management Association