

Shared Municipal Services Reform Act of 2008

Section 1. Short Title.

This Act shall be known as the Shared Municipal Services Reform Act of 2008.

Section 2. Legislative Findings and Declaration of Purpose.

(a) At the present time Pennsylvania has 2561 local governments, 67 counties, 501 school districts, and thousands of special purpose authorities and districts.

(b) While local governments often do an excellent job of providing for residents and businesses within their jurisdictions, many public safety, development, infrastructure, social, environmental and resource issues cross municipal boundaries and may best be addressed regionally.

(c) Under existing legislation Pennsylvania's county and local governments are forced to rely far too heavily on local property taxes for general fund revenue and often lack the resources and legal tools necessary to provide efficient, cost effective services locally and regionally in order to achieve the development and conservation goals they have for their communities.

(d) The purpose of this Act is to enable, empower and encourage counties and municipalities to work together more effectively to improve the Commonwealth's economic vitality and the quality of life enjoyed by its residents and to attract new residents, businesses and visitors to Pennsylvania by authorizing optional taxation and service delivery mechanisms that will permit counties and municipalities to:

(i) Strengthen and enhance the delivery of public safety and other

municipal services on a county-wide, regional or multi-municipal basis;

(ii) Reduce county and municipal property taxes;

(iii) Shift the local and county tax burden to a more diverse and consistent base;

(iv) Shift the local and county tax burden to a base that grows more proportionately to the cost of service delivery;

(v) Create a fund that makes shared multi-municipal service delivery possible and sustainable in a locally designed manner; and

(vi) Reduce the long term cost of traditional municipal services while ensuring that those services are delivered in a manner and within a “service district” that maximizes their effectiveness and quality.

Section 3. Responsibilities of Counties when creating the Shared Local Services and Revenue Reform Commission.

Upon the passage of this legislation, all counties in Pennsylvania are authorized to levy the authorized taxes if they form a Commission as defined in this legislation from a representative group of municipal, civic and business leaders to recommend and foster multi-county, county or multi-municipal shared service delivery. The new taxes will be used as defined Section 8 of this legislation.

(a) Each county that elects to appoint a commission shall appoint a Shared Services and Revenue Reform Commission [the Commission] in accordance with the following provisions.

(i) The Commission shall consist of eleven to twenty-one members

appointed by the governing body.

(ii) The governing body may recommend to the Commission the services and geographic boundaries to be studied.

(b) The governing body shall provide necessary and reasonable resources to support the Commission and may engage a consultant if necessary to assist the Commission and shall reimburse the members of the Commission for necessary and reasonable expenses in the discharge of their duties.

Section 4. Organization of the Commission.

The Commission shall be comprised of the following:

(a) One member of the Commission may be a member of the governing body, as deemed appropriate by the governing body.

(b) All Commission members shall be residents of the county or counties under review.

(c) Representatives on the Commission should reasonably reflect the socioeconomic, age and occupational diversity of the county or counties.

(d) The Commission shall include elected municipal officials from all classes of local government, public authorities, if relevant, and civic and business leaders.

(e) The majority of Commission members shall be local government elected officials.

(f) Each Municipality participating in the study shall nominate one individual to represent its interests as an ex-officio non-voting member of the Commission and shall receive all information provided to the official members and shall be invited to all commission meetings.

(g) The Commonwealth shall provide matching funds equal to 50% of the cost of the Commission.

Section 5. Duties of the Shared Local Services and Revenue Reform Commission.

The Commission shall:

(a) Study the effectiveness of the delivery of municipal services within the county or multiple counties as recommended by the Board(s) of Commissioners and determined by the Commission. The services to be studied may include police, fire, EMS, public works, recreation, health, recycling, tax collection, land use planning, zoning, infrastructure (sewer, water, roads and bridges), transportation and economic and community development and any other service(s) as deemed appropriate by the Commission.

(b) Prior to defining the scope of its work, the Commission shall consider the following:

- (i) The recommendations of the governing body.
- (ii) The tax burden associated with a service or services.
- (iii) A Multi-County, County or sub-county comprehensive plan.
- (iv) Changing demographic and socio-economic trends.
- (v) Public input.
- (vi) The input of local government officials.
- (vii) The input of civic and business leaders.

(viii) Existing boards, commissions and public authorities charged with the delivery of municipal services.

(c) Determine the cost of current delivery of municipal services being studied, including operating, capital and legacy expenses.

(d) Identify the geographic area or areas within the county or counties where the shared delivery of municipal services exist or would be appropriate or desirable. The recommended area for shared services may be the multi-counties, parts of multi-counties, the county as a whole or one or more sub-regions within the county as the Commission determines.

(e) Study existing taxes levied, assessed and collected by the county or counties and its municipalities and determine if and how the delivery of municipal services and the tax policy of the county and its municipalities could be strengthened or made more equitable by adopting the shared services and revenue provisions of this Act.

(f) The study shall include, but is not limited to, consideration of historical and projected demographics and socioeconomic trends and their relationship to the scope of the Commission and its recommendations.

g) The study shall include projected costs and levels of services over a period of 10 years based on existing levels of service compared to proposed alternatives and reasonably expected reductions or increases in service.

Section 6. The Report of the Shared Local Services and Revenue Reform Commission.

Within eighteen months of its appointment, the Commission shall make a report and nonbinding recommendation to the governing body that shall include the following

items:

(a) Recognition of effective existing multi-municipal initiatives within the district of study.

(b) Service District Recommendations: The Commission Report may recommend one or more shared municipal service areas within the county or multi-county for each municipal service studied. The recommended shared municipal service areas may be county-wide, sub-county or multi-municipal within the county, or multi-county and may cover an entire county or less than an entire county.

(c) Service Delivery Recommendations: The Commission Report shall recommend the most efficient and effective manner in which the county, or counties and their municipalities can provide any municipal or county services studied. The report may recommend providing services through an existing municipal entity, through an existing county entity, through a newly created county entity, through a newly created multi-municipal, multi-county or regional entity, or some combination of the above.

(d) Taxing Recommendations: Utilizing existing tax revenues and the additional forms of taxation and tax sharing authorized in this Act, the Commission Report shall recommend the form or forms of taxation throughout the county that will best provide a sustainable and equitable source of funds for the delivery of shared municipal services and that will provide property tax relief at the county and municipal level while strengthening county and municipal general fund revenues. Where appropriate the Commission may recommend differential levels of taxation within the county based upon the need for and cost of municipal services.

(e) Transition Recommendations: The Commission Report shall identify the

financial and legal barriers to consolidation of existing municipal service providers into more appropriate shared service districts. This Report shall include an analysis of the “up-front” costs of creating a shared services district as well as an analysis of service equalization costs and legacy costs, if any, associated with the existing public safety service delivery mechanism. The Report shall make recommendations as to the apportionment of costs to the respective levels of state, county and local government.

(f) Extension of time to report: The Commission may request and the governing body may grant additional time in six month increments for the Commission to complete its work and submit its report.

(g) The Commission shall issue or cause to be published, within 30 days of making its recommendation, a final report of its activities and recommendations and shall deliver the final report to the governing body who shall supply copies to any interested persons upon request.

(h) All the records, receipts, minutes of meetings and written discussions of the Commission shall, upon its discharge, be turned over to the governing body for permanent safekeeping. The governing body shall make such materials available for public inspection at any time during regular business hours.

(i) Governance and Fiscal Oversight Structure Recommendations: The Commission shall recommend a structure to oversee any service and revenue recommendations not directed to an existing entity. The structure to be recommended should be the most appropriate for the jurisdiction and may include the formation or use of existing COG (Council of Governments), Service Commission (s), authorities and fee

for service agreements with a single existing or new provider via the Intergovernmental Cooperation Act.

(j) The Commission shall be discharged upon the filing of its final report.

(k) The governing body may empanel a new Commission to study additional shared services and revenue opportunities as often as it deems necessary in accordance with the procedures set forth in this Act

(l) Failure to report: If the Commission fails to make a report and nonbinding recommendation supported by at least a majority of the Commission members within period permitted, the governing body shall discharge the Commission and appoint a new Commission as delineated in Section 3 and Section 4 of this Act.

Section 7. Additional taxes authorized to fund shared services, provide property tax relief, and support general governmental operations.

(a) Authorization of additional taxing power: Notwithstanding any other provision of law, when the report of a Commission created pursuant to this Act recommends the creation of shared municipal service districts (whether for an entire county or a portion thereof) and also recommends funding a portion of the cost of services provided by the shared service district with personal or earned income taxes, local County option sales tax, local municipal liquor sales tax and/or an increase in the realty transfer tax, and the Report is accepted and implemented by the governing body and municipalities impacted, the governing body shall have the power and may, consistent with the Report of the Commission, levy, assess and collect or provide for the levying, assessment and collection of taxes on the personal income of resident taxpayers up to a maximum rate of 1.0% in increments of 0.25%, or on the earned income of resident taxpayers up to a maximum rate of 1.0% in increments of 0.25%. In addition,

the governing body may impose a local county option sales tax up to a maximum rate of 1.0% in increments of 0.25%, a local municipal liquor sales tax up to a maximum of 10%, a realty transfer tax at the rate of 1.0% on real estate transfers that occur within the county. Provided: all revenue derived from the additional taxes authorized by this section shall be used and distributed as set forth set forth in section eight (8).

(b) Exclusions: No county which levies a tax authorized by this act shall have any power or authority to levy, assess or collect:

(1) A tax based upon a flat rate or on a mileage rate on an assessed valuation of a particular trade, occupation or profession, commonly known as an occupation tax.

(2) A per capita, poll, residence or similar head tax.

(3) The intangible personal property tax under the act of June 17, 1913 (P.L.507, No.335), referred to as the Intangible Personal Property Tax Law.

(c) Preemption: No act of the General Assembly in effect prior to or after the effective date of this act shall vacate or preempt any ordinance passed or adopted under the authority of this act or any other act providing authority for the imposition of a tax by a county, unless the act of the General Assembly expressly vacates or preempts the authority to pass or adopt such ordinances.

Section 8. Disposition and use of additional tax revenues.

All proceeds from the additional taxes authorized by this Act shall be distributed and used as follows:

(a) Any revenue lost by the elimination of the taxes set forth in Section 7,

including the collection costs, shall be reimbursed to the county on a priority basis before determining any subsequent percentage distribution of revenue for other purposes or among other entities.

(b) Twenty-five (25%) of the revenue shall be used to reduce the county real property tax.

(c) Twenty-five (25%) of the revenue shall be paid into a separate “Shared Municipal Services Fund” (SMSF) to be used to fund the implementation and delivery of shared municipal services on a multi-county, county, or multi-municipal basis as recommended by the Commission or the Task Force and as adopted by the county and municipalities. These funds can be utilized to pay for services delivered directly by the county, or through a regional service provider, or to reimburse an existing municipal provider that has assumed service responsibilities as part of the sharing of municipal services. Any funds not used in the SMSF shall remain in a “restricted receipt account” to be used only for the future development and delivery of shared services.

(d) Twenty-five (25%) of the revenue shall be paid over to municipalities which have passed a resolution urging the county to impose the new taxes. These funds may be utilized by the recipient municipalities to provide real property tax relief and to support the municipalities General Fund for general government services.

(e) Twenty-five (25%) of the revenue shall be deposited into the General Fund of the county for general government purposes.

(f) If a participating municipality reduces its annual operating budget by greater than 40% due to the functional consolidation and new revenues provided to the

SMSF, the municipality shall reduce property or other existing taxes by 50% of the annual net operating savings derived for a minimum of three years.

Section 9: The Shared Municipal Services Fund

(a) The Shared Municipal Services Fund (SMSF) shall be used only to fund the delivery of shared county and municipal services on a multi-county, county wide or sub-county basis as recommended by the Commission and adopted by the County and Municipalities.

(b) In order to sufficiently support and sustain the shared services recommended by the Commission, a municipality that functionally consolidates its existing service(s) into a Multi-County, County or Sub-county service district may be required to make a contribution of capital assets critical to the service(s) of the district and annual contributions to the SMSF as determined by the Commission and adopted by the County and Municipalities.

(c) The SMSF shall be administered as recommended in Section 6 (i).

Section 10. Creation of a Commission when the county fails to act.

(a) County-wide study: In the event the governing body has not created a Commission within two years of the effective date of this Act, the governing body shall be compelled to empanel a Commission to study the entire county upon petition filed by fifty percent (50%) of the municipalities located within the county and municipalities representing at least fifty percent (50%) of the population of the county. In such event the governing body shall select the members of the Commission from names

recommended to the governing body by the municipalities petitioning for the creation of the Commission.

(b) Less than county-wide study: In the event the governing body has not created a Commission within two years of the effective date of this Act, the governing body shall be compelled to empanel a Commission to study a discrete, geographically unified region of the county or counties upon petition filed by fifty percent (50%) of the municipalities located within that region representing at least fifty percent (50%) of the population of the region. In such event the governing body shall select the members of the Commission from names recommended to the governing body by the municipalities petitioning for the creation of the regional Commission.

Section 11. Implementation of the Recommendations of the Commission.

(a) County-wide shared services: When the Commission Report recommends that municipal services can best be provided on a county-wide basis, and the governing body of the county accepts the Report as presented, the Report shall then be presented for approval or rejection to the governing body of each municipality within the county within 180 days. If the Report is accepted by resolution of the county and by resolution adopted by 50% of the municipalities located within the county or proposed service district and by municipalities representing 50% of the population of the county or service district, the Report shall be deemed accepted and shall thereafter be implemented by adoption of the necessary county and municipal ordinances and resolutions.

(b) Multi-municipal shared services: When the Commission Report recommends that municipal services can best be provided on a regional basis within the

county or counties (whether by the county or some other service provider), and the governing body of the county accepts the Report as presented, the Report shall then be presented for approval or rejection to the governing body of each municipality within the region(s) of the county affected by the Report within 180 days. If the Report is accepted by resolution of the County and by resolution adopted by municipalities representing 50% of the population of the region and 50% of the total number of municipalities within the affected region, the Report shall be deemed accepted and shall thereafter be implemented by adoption of the necessary County and municipal ordinances and resolutions.

(c) Multi-County Shared Services: When the Commission Report recommends that municipal services can best be provided on a regional basis across county boundaries and the governing bodies of the counties impacted accepts the Report as presented, the Report shall then be presented for approval or rejection to the governing body of each municipality and or county within the region(s) of the county or counties affected by the Report within 180 days. If the Report is accepted by resolution of the County or Counties and by resolution adopted by municipalities representing 50% of the population of the region and 50% of the total number of municipalities or counties within the affected region, the Report shall be deemed accepted and shall thereafter be implemented by adoption of the necessary County and municipal ordinances and resolutions.

(d) Preemption: When new authority to act is required to permit a County, municipality, municipal authority or service district to provide a service as recommended by the Commission the authority to provide such service consistent with the Report of the

Commission is hereby granted to the county, the municipalities and municipal authorities affected by the Report. No act of the General Assembly in effect prior to or after the effective date of this act shall vacate or preempt any ordinance passed or adopted under the authority of this act to implement the Report of a Commission unless the act of the General Assembly expressly vacates or preempts the authority to pass or adopt such ordinances. When necessary or desirable, counties, municipalities and municipal authorities may make and enforce agreements pursuant to the provisions of the Intergovernmental Cooperation Act as necessary to implement the Report of the Commission.

Section 12. Rejection of the Report.

(a) Reasons to be stated: In the event a county or a municipality rejects the Report of the Commission the resolution rejecting the report shall set forth the specific reasons for the action and shall, where appropriate, indicate what changes could be made in the Report to make it acceptable to the entity rejecting the Report.

(b) Alternate Report authorized. In the event the Report of the Commission is not adopted by a sufficient number of municipalities to implement its recommendations as presented, the Commission is authorized to develop an alternate Report based upon the original Report of the Commission and the reasons given for its rejection and to present the alternate Report to the county or counties and municipalities for action. Should the alternate Report receive the support of a sufficient number of municipalities and counties, it shall be implemented in the same manner as if it had been presented by the Commission.

(c) Less than County-wide recommendations rejected by the County. In those

instances where the Report recommends that municipal services can best be delivered on a multi-municipal basis that is less than county-wide, and the governing body fails to accept the Report, the Report shall thereafter be then be presented for approval or rejection to the governing body of each municipality affected by the recommendations of that portion of the report. If the Report is accepted by municipalities representing 70% of the population of the affected area and 70% of the total number of municipalities within the affected area, the Report shall be deemed accepted and shall thereafter be implemented by adoption of the necessary County and municipal ordinances and resolutions.

(d) County-wide Recommendations rejected by the County: In those instances where the Report recommends that municipal services can best be delivered on a county-wide basis, and the county fails to accept the Report, the Report shall thereafter be then be presented for approval or rejection to the governing body of each municipality affected by the recommendations of that portion of the report. If the Report is accepted by municipalities representing 70% of the population of the affected area and 70% of the total number of municipalities within the affected area, the Report shall be deemed accepted and shall thereafter be implemented by adoption of the necessary County and municipal ordinances and resolutions.

(e) If a municipality rejects inclusion in a shared services arrangement, it may annually re-evaluate that decision and be permitted to join the arrangement under reasonable buy-in provisions.

Section 13. The Commonwealth's Responsibilities

(a) Study grant. The Commonwealth shall provide grant funding to each

county that creates a Commission, to assist in the study and preparation of the Report, 50% of the cost of the study and Report.

(b) Transition costs grant. In each instance where the Report recommends the creation of shared service districts that result in consolidation of existing public safety services (police, fire and EMS), and the Report is implemented, the Commonwealth shall provide a grant equal to 75% of the cost to the entity managing the service associated with creating the shared service delivery vehicle, including but not limited to legal costs, actuarial costs, one-time costs associated with equalizing wages and benefits, transition costs and the like.

(c) Legacy costs. At the present time many municipalities in the Commonwealth are burdened by significant "legacy" costs associated with the provision of public safety services, primarily pension and health care costs. The existence of these long term cost structures are a significant contributor to the decline of the economic vitality of some municipalities and a substantial impediment to shared service delivery within the Commonwealth. To the extent that the Report of the Commission identifies legacy costs associated with the creation of a shared service provider recommended by their Report, the Commonwealth shall assist in the amortization and funding of these costs so that they do not become a barrier to sharing services in the future.

Section 14. Definitions.

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

"Board of county commissioners." Includes the successor in function to the board of county commissioners in a county which has adopted a home rule charter under the

provisions 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government), but does not include the city council of a city of the first class.

"Classes of income." The classes of income set forth in section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Compensation." As defined in section 301 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"County." A county-level municipality within this Commonwealth, regardless of classification. The term includes a county which has adopted a home rule charter or optional plan of government under the provisions of 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government). The term does not include a county of the first class or a county of the second class.

"Department." The Department of Revenue of the Commonwealth.

"Domicile." As defined in section 13 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

"Earned income." The classes of income defined as "earned income" in section 13 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

"Employer." As defined in section 301 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Governing body." The board of county commissioners, including the successor in function to the board of county commissioners in a county which has adopted a home

rule charter under the provisions of 53 Pa. C. S. Pt. III Subpt. E (relating to home rule and optional plan government). The term does not include the board of the county council of a county of the second class.

"Homestead." As defined in 53 Pa.C.S. § 8401 (relating to definitions).

"Individual." As defined in section 301 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Local Tax Enabling Act." The act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

"Municipality." A city of the second class, city of the second class A, city of the third class, borough, incorporated town, township of the first class, township of the second class, home rule municipality, optional plan municipality, optional form municipality or similar general purpose unit of government which may after the effective date of this act be established by statute, except a city of the first class.

"Nonresident." An individual domiciled outside the municipality.

"Ordinance." Includes a resolution.

"Personal income." The classes of income enumerated in section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and upon which is imposed a personal income tax by the Commonwealth.

"Public safety services." Police service, fire protection service and Emergency Medical Services [EMS] that are currently provided by municipal governments or volunteer organizations; does not include services provided by the Pennsylvania State

Police.

“Shared Services.” Giving local elected officials options to meet the needs in their community. It means using municipal, multi-municipal or regional structures that are appropriate for the character and fiscal resources of the community. It encourages cooperation with other jurisdictions to provide services and facilities that can be best delivered on a multi-municipal basis. It means creating more flexibility to merge or consolidate existing municipal services into new service districts that are adapted to modern realities. It means encouraging regional agencies where the need exists, and providing for meaningful participation by municipal governments in ways that respond to the needs of a region. It means giving municipal governments the option of contracting with or turning responsibility for certain services over to counties and it means promoting innovation and efficiency in local governance.

"Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Taxpayer." An individual required under this act to file a tax return or to pay a tax.

“Board of county commissioners” and “Governing body.” In most home rule counties the type of responsibilities in the statute are typically under the office of the elected executive. The proposal, however, typically uses the term “governing body”.

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