

No. 341

AN ACT

To *execute partially section one of article fifteen of the Constitution by giving cities of the first class the right to frame, adopt and amend home rule charter provisions governing the organization of the public school system; to grant to such cities certain enumerated powers of local self-government with respect to public education; to grant to such cities necessarily implied powers to effectuate such enumerated powers; to impose certain general and specific restrictions and limitations; and to impose duties upon city councils, city officers, board of elections, courts and the Secretary of the Commonwealth.

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

First Class City
Public Education
Home Rule Act.

ARTICLE I.

DEFINITIONS.

Section 1. Definitions of Terms.—As used herein, the following terms shall mean:

(1) "City" or "city of the first class" shall mean a city of the first class.

(2) "School district" shall mean any school district, or school districts, in existence within a city at the time such city exercises the powers under this act.

(3) "Home rule school district" shall mean a school district designated as provided in clause (1) of subsection (a) of section 18 of this act, and brought into existence through the exercise of powers contained in this act.

(4) "Commission" shall mean the commission authorized by section 3 of this act, and appointed pursuant to provisions of section 4 herein.

(5) "Charter provisions" shall mean either those sections which shall be added to an existing home rule charter or those sections which comprise a separate home rule charter for public education of a city without a previously existing home rule charter.

ARTICLE II.

ADOPTION AND AMENDMENT OF CHARTER PROVISIONS.

Section 2. Cities Empowered.—Any city of the first class may frame and adopt charter provisions governing the administration of a separate and independent home rule school district as provided in section 18 of this act.

Section 3. Initiation of Proceedings.—(a) The city council of any city of the first class by a two-thirds vote

* "executive" in original.

of its elected members may, or upon petition presented to the city council and if filed as hereinafter provided in the form prescribed by the city council signed by not less than twenty thousand registered electors of the city shall, without undue delay, provide, by ordinance, for the appointment of a commission to frame charter provisions and for giving public notice of the passage of said ordinance. Each elector signing such petition shall add to his signature his occupation and residence and the date of signing. Signatures to the said petition may be on separate sheets but each sheet shall have appended to it the affidavit of some person not necessarily a signer and not necessarily the same person as on other sheets that to the best of affiant's knowledge and belief, the signers are registered electors of the city, that they signed with full knowledge of the contents of the petition and that their residences are correctly given.

(b) The clerk of the city council of the city shall file with the mayor of the city, the secretary of the school district, the secretary of the board of judges of the court or courts of common pleas located in such city and the Secretary of the Commonwealth a copy of such ordinance, certified by him, within the five days next following its final passage, and shall also cause the public notice to be given as provided in the said ordinance.

Section 4. Appointment of Members of Commission.—Within thirty days after the final passage of the said ordinance, but in no event earlier than January 15, 1964, the mayor of the city, the board of judges of court or courts of common pleas located in such city and the Governor of the Commonwealth shall appoint a commission consisting of nine registered electors of the city, three of whom shall be appointed by the mayor, three by the board of judges of the court or courts of common pleas located in such city and three by the Governor of the Commonwealth.

Section 5. Vacancies.—Any vacancy in the membership of the commission caused by death, resignation, removal from the city or otherwise shall be filled by the remaining members of the commission by appointing as a member of the commission a registered elector of the city.

Section 6. Organization of Commission; Framing of Proposed Charter Provisions.—The mayor of the city shall call the first meeting of the members of the commission so appointed within thirty days after their appointment, to be held at a time and place fixed by him in his call, and at such meeting the commission shall organize by selecting from their number a chairman and a secretary, adopt rules to govern its proceedings

and proceed to discharge the duties set forth in this act. All meetings of the commission shall be open to the public, except when the commission may desire an executive session. All actions of the commission shall be by a majority vote of all members.

Section 7. Amendments.—Amendments to charter provisions adopted under this act shall be made in accordance with the procedures set forth in the act of April 21, 1949 (P. L. 665), known as the “First Class City Home Rule Act.”

Section 8. Examination of Petitions; Filing; Rejection.—When any petition is presented to the city council of the city under or pursuant to the provisions of subsection (a) of section 3, it shall be the duty of the clerk of the city council, with the assistance and advice of the city solicitor or head of the department of law of the city, to examine such petition. No such petition shall be permitted to be filed if (1) it contains material errors or *defects apparent on the face thereof or on the face of the appended or accompanying affidavits, or (2) it contains material errors made after signing without the consent of the signers, or (3) it does not contain a sufficient number of genuine signatures, as required by this act: Provided, however, That although not hereby required so to do, the clerk of the city council may question the genuineness of any signature or signatures appearing thereon and if he shall thereupon find that any such signature or signatures are not genuine, such signature or signatures shall be disregarded by him in determining whether the petition contains a sufficient number of signatures, as required by this act. The invalidity of any sheet of a petition shall not affect the validity of such petition if a sufficient petition remains after eliminating such invalid sheet. The action of the clerk of the city council in rejecting and refusing to file any petition may be reviewed by the court or courts of common pleas located in such city, upon an application for a writ of mandamus to compel its reception, as of the tenth day next following the day it was presented to the city council. Unless such application for a writ of mandamus shall be made and filed in the said court of common pleas within ten days after the refusal of the clerk of city council to file the petition, the court shall be without jurisdiction to entertain or consider any application for a writ of mandamus or any other proceeding to compel the filing of the petition: Provided, however, That the clerk of the city council shall be entitled to a reasonable time in which to examine any such petition and to summon and interrogate the persons presenting the petition or any of the signers thereof or

* “defect” in original.

any of the affiants to any of the appended or accompanying affidavits and his retention of such petition for the purpose of making such examination or interrogation shall not be construed as the filing thereof.

Section 9. Objection to Petitions.—Any petition presented to the city council of the city under or pursuant to the provisions of subsection (a) of section 3, and if filed as hereinbefore provided shall be deemed to be valid unless, within seven days after the filing of such petition, a petition is presented to the court of common pleas of the proper county by not less than one hundred registered electors of the city, specifically setting forth the objections thereto and praying that the said petition be set aside. A copy of said petition presented to the court of common pleas shall, within said period, be served on the clerk of the city council of the city. Upon the presentation of such a petition, the court shall make an order fixing the time for hearing, which shall not be later than ten days after the presentation of the petition to the court, and specifying the time and manner of notice, by public advertising or otherwise, that shall be given of such hearing. On the day fixed for said hearing, the court shall proceed, without delay, to hear said objections and shall give such hearing precedence over any other business before it, and shall finally determine said matter not later than fifteen days after the last day for presentation of such petition to the court. If the court shall find that such petition is defective under the provisions of section 8 of this act, or does not contain a sufficient number of genuine signatures of registered electors entitled to sign the same under the provisions of this act, it shall be set aside. If the objections relate to material errors or defects apparent on the face of the petition or on the face of the accompanying or appended affidavits, the court after hearing may, in its discretion, permit amendments within such time and upon such terms as to payment of costs as the said court may specify. In case any such petition is dismissed, the court shall make such order as to the payment of the costs of the proceeding, including witness fees, as it shall deem just.

Section 10. Filing and Distribution of Proposed Charter Provisions; Framing of Ballot Question.—The charter provisions proposed by the commission for submission to the qualified electors of the city for their approval or disapproval shall be filed with the city council which shall thereupon cause said proposal or proposals, together with the form of the question or questions hereinafter provided for, to be printed in pamphlet form in sufficient number for general distribu-

* "for" in original.

tion. The said pamphlets shall be made ready for distribution at least twenty-eight days before the election at which the proposals aforesaid are to be voted upon by the electors and the said proposals, together with the said ballot questions, shall also be published once a week for three weeks in at least two newspapers of general circulation in the weeks immediately preceding the election at which the vote is to be taken upon said proposals. Each ballot question shall be framed in brief form of not more than seventy-five words by the commission. The commission may require that its proposed charter provisions be submitted in two or more parts, and may also submit alternative charter provisions to supersede designated portions of the proposed charter provisions, if adopted. In such case, the commission shall prescribe the form of questions in such a manner as will clearly indicate the effect of the approval of such questions. The clerk of the city council shall, within five days after the filing of the charter provisions proposed by the commission, certify an exact copy of the text of such charter provisions, together with the necessary ballot questions, to the board of *elections in the county wherein such city is situate. The board of elections shall cause the said ballot questions to be properly printed on the ballots or ballot labels.

Section 11. Submission of Charter Provisions to Vote.—The proposed charter provisions shall be submitted to the electors for approval or disapproval by the use of the ballot questions, framed as aforesaid, at a special election occurring more than forty-five days after the proposed charter provisions are filed with the city council of the city. Such special election shall be held on such day as shall be fixed and designated by the commission, which day may be the day for holding any primary or regular November election or a day other than a day for holding any such election in the city.

Section 12. Effect of Adoption of Charter Provisions on Existing Laws.—Any charter provisions thus proposed, which are approved by a majority of the qualified electors voting thereon, shall become the organic law, or a part thereof, of the city at such time as may be fixed therein and all courts shall take judicial notice thereof. So far as the same are consistent with the grant of powers and the limitations, restrictions and regulations hereinafter prescribed, they shall supersede all acts, or parts of acts, local, special, or general, affecting the organization, government and powers of such school district to the extent that they are inconsistent or in conflict therewith. All existing acts, or parts of acts, ordinances

* "election" in original.

and resolutions affecting the organizations, government and powers of such school district, not inconsistent or in conflict with the charter provisions so adopted, shall remain in full force. No contract existing at the time of the adoption of the charter provisions pursuant to this act shall be affected thereby, but such contract shall have the same force and effect and be of the same validity as if such charter provisions had not been adopted.

Section 13. Recording and Filing of Charter Provisions; Printing in Pamphlet Laws.—The clerk of the city council of the city shall forthwith cause the said charter provisions, as approved by the qualified electors, to be recorded in the ordinance book of the city. He shall also file certified copies thereof in the office of the Secretary of the Commonwealth and the secretary of the board of public education of the school district, and the text thereof shall be published as an appendix to the next volume of the pamphlet laws subsequently published.

Section 14. Conduct of Elections; Returns.—All elections provided for in this act shall be conducted by the election officers for such city in accordance with the Pennsylvania Election Code. The election officers shall count the votes cast and make return thereof to the board of elections. The result of any such election shall be computed by the board of elections in the same manner as is provided by law for computation of similar returns at any such election. Certificates of the result of any such election shall be filed by the board of elections with the city council of the city, with the secretary of the board of public education of the school district and with the Secretary of the Commonwealth.

Section 15. Notice of Election.—At least thirty days' notice of each election herein provided for shall be given by proclamation of the mayor of the city. A copy of such proclamation shall be posted at each polling place of the city on the day of the election and shall be published in at least two newspapers of general circulation in the city once a week for three consecutive weeks during the period of thirty days prior to the election, which publications may be included in the publication required to be made under the provisions of section 10 of this act.

Section 16. Expenses of Commission.—The expenses of the charter commission, and the cost of publishing, distributing and advertising the proposal or proposals of the commission or of the city council of the city or of electors and the proclamations as required by section 15 of this act, and all other expenses of the commission and of the city council incurred in connection with any proceedings hereinbefore provided for, when not other-

wise provided for by law, may be paid from the city treasury as the city council of the city may provide.

Section 17. Limitation on Presenting Petitions For and the Adoption of Charter Provisions.—No proposed charter provisions shall be submitted to the qualified electors oftener than once in every five years: Provided, however, That no petition by registered electors of the city for the appointment of a commission, as provided in subsection (a) of section 3, shall be presented to the city council of the city if the city council shall at such time already have provided, by ordinance, for the appointment of such commission, or if a petition by registered electors for the appointment of a commission shall then already have been presented to the city council, until the expiration of four years and six months next following the submission to the qualified electors of the city for their approval or disapproval of the charter provisions proposed by the commission, unless, in the case of a petition by registered electors already presented, such petition shall have been then rejected or set aside under the provisions of section 8 or section 9 of this act: And provided further, That no petition by registered electors for the appointment of a commission shall be presented to the city council until the expiration of three months next following the effective date of this act.

ARTICLE III.

GRANT OF POWERS.

Section 18. Grant of Powers and Authority.—(a) Any city of the first class taking advantage of this act and framing and adopting provisions hereunder shall have, and may exercise, the following enumerated powers:

(1) The power to establish and create a separate and independent home rule school district, to be named: "The School District of (name of the city of the first class)"; such home rule school district to:

(i) succeed directly the school district for all purposes, including but not limited to, the receipt of all grants, *gifts, appropriations, subsidies or other payments; such school district to continue its operation until the effective date of the charter provisions establishing the home rule school district;

(ii) assume all assets, property, real and personal, tangible and intangible, all easements and all evidences of ownership in part or in whole, and all records, and other evidences pertaining thereto; and

* "gift" in original.

(iii) assume all debt and other contractual obligations of the school district, such long term debt to be issued, secured and retired in the manner now provided by law.

(2) The power to provide for a board of education of such home rule school district, which shall be charged with the administration, management and operation of such home rule school district.

(3) The power to set the term, number and qualifications of board of education members; to provide for the methods of nomination, such to include a citizens' nominating panel, if deemed advisable; and either to provide for a method of appointment, in such case such power shall include the designation of the appointing authority, or to provide for a method of election.

(4) Such implied powers as are necessary to carry into effect the express powers set forth in this section.

(b) Any board of education established pursuant to this act may enact by-laws, resolutions, rules and regulations necessary and proper to carry into execution the foregoing powers and all other powers vested in the board of education by the "Public School Code of 1949."

(c) The commission may investigate and make findings on all aspects of the organization and administration of such home rule school district, including the method by which local taxes for schools are authorized and levied: Provided, however, That if such findings involve matters not within the purview of those subjects proper for charter provisions by reason of clauses (1) through 4 of subsection (a) of this section, they shall have a status no greater than that of recommendations.

Section 19. Limitations.—(a) Any city of the first class taking advantage of this act and framing and adopting provisions hereunder shall not have powers and authority greater than those express and implied powers granted by section 18 of this act. Furthermore, such powers granted by section 18 of this act shall not be construed to include:

(1) An assumption by the city of the debt of a school district or home rule school district.

(2) A grant of authority to the city council of such city of the first class to enact legislation regulating public education or the administration thereof, except in respect to the setting of maximum tax rates for school purposes as shall be authorized by the General Assembly from time to time.

(3) A grant of authority to frame charter provisions which contravene any act of the General Assembly applicable in every part of the Commonwealth or applicable to all school districts of the Commonwealth.

(b) Nothing in this act shall be construed as constituting a prohibition against agreements including, but not limited to, joint tax collection, joint purchasing of supplies, equipment and contractual services, use of recreational and park equipment and facilities, control and prevention of juvenile delinquency, city planning, capital budgeting, capital programming and comprehensive development planning, with any municipal or former county department, agency, office, board or commission or any agency of the Commonwealth or the United States Government, when, in the opinion of a duly constituted board of education of the home rule school district or its authorized agents, such agreement will further the efficient and effective administration of public education.

(c) Charter provisions adopted or amended in accordance with this act shall not be inconsistent with the Constitution of the United States or of this Commonwealth.

ARTICLE IV.

GENERAL PROVISIONS.

Section 20. Validation of Charter Proceedings.—No charter provisions, when adopted by a majority vote of the qualified electors of any city voting at any election, shall be declared invalid or be set aside on account of any defect, error or omission in the proceedings for the adoption of any such charter.

Section 21. Penalties.—(a) If any person shall knowingly sign any petition provided for in this act without having the qualifications prescribed by this act, or if any persons shall set opposite a signature on any such petition a date other than the actual date such signature was affixed thereto, or if any person shall set opposite the signature on any such petition a false statement of the signer's place of residence or occupation, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or to undergo an imprisonment of not more than two years, or both, at the discretion of the court.

(b) If any persons shall knowingly make a false statement in any affidavit required by the provisions of this act to be appended to or to accompany a petition provided for in this act, or if any person shall fraudulently sign any name not his own to any such petition or affidavit, or if any person shall fraudulently alter any such petition without the consent of the signers, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hun-

dred dollars (\$500), or to undergo imprisonment of not more than two years, or both, in the discretion of the court.

(c) Any persons, who shall wilfully deface or destroy any petition provided for in this act or any part thereof, or who shall present or file, or cause to be presented or filed, any such petition, knowing the same or any part thereof to be falsely made, or who shall suppress any such petition or any part thereof which has been duly presented or filed, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or to undergo imprisonment of not more than two years, or both, in the discretion of the court.

(d) Any wilful false statement made, under oath or affirmation, or in writing, stating that it is so made, although such oath or affirmation may not have actually been made by any persons regarding any material matter or thing relating to any subject being investigated, heard, determined or acted upon by the clerk of the city council or any other officers of the city or by any court or judge thereof, in accordance with the terms of this act, shall be perjury, and any persons, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or to undergo an imprisonment of not less than three months nor more than two years, or both, in the discretion of the court.

(e) Any officer of a city, county or school district, or any employe of such officer or of such city, county or school district, or any other person on whom a duty is laid by this act, who shall wilfully neglect or refuse to perform his duty, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or to undergo an imprisonment of not more than two years, or both, in the discretion of the court.

(f) Any person who shall violate any of the provisions of this act for which a penalty is not herein specifically provided shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or to undergo an imprisonment of not more than two years, or both, in the discretion of the court.

Section 21. Short Title.—This act shall be known and may be cited as the “First Class City Public Education Home Rule Act.”

Section 22. Repealer.—All acts and parts of acts are repealed in so far as inconsistent.

Section 23. This act shall take effect immediately.

Act effective immediately.

APPROVED—The 9th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 342
AN ACT

Amending the act of August 15, 1961 (P. L. 987), entitled "An act relating to public works contracts; providing for prevailing wages; imposing duties upon the Secretary of Labor and Industry; providing remedies, penalties and repealing existing laws," further defining the localities for which prevailing minimum wage rates are to be determined, further specifying the nature and monetary amount of contracts which shall be subject to the act, further specifying how prevailing minimum wage rates shall be determined, imposing duties upon public bodies in relation to the determination of prevailing minimum wage rates and the inclusion of such rates in bid notices and contracts, creating an Advisory Board and an Appeals Board and providing for each board's powers and duties.

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

Pennsylvania
Prevailing Wage
Act.

Section 1. Clauses (2) and (5) of section 2, act of August 15, 1961 (P. L. 987), known as the "Pennsylvania Prevailing Wage Act," are amended to read:

Clauses (2) and (5), section 2, act of August 15, 1961, P. L. 987, amended.

Section 2. Definitions.—As used in this act—

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(2) "Locality" means any political subdivision, or combination of the same, [or parts thereof, or any area or areas classified, designated and fixed by the secretary from time to time] *within the county in which the public work is to be performed. When no workmen for which a prevailing minimum wage is to be determined hereunder are employed in the locality, the locality may be extended to include adjoining political subdivisions where such workmen are employed in those crafts or trades for which there are no workmen employed in the locality as otherwise herein defined.*

* * * * *

(5) "Public work" means construction, reconstruction, demolition, alteration and/or repair work *other than* maintenance work, done under contract and paid for in whole or in part out of the funds of a public body [, except]. *where the estimated cost of the total project is in excess of twenty-five thousand dollars (\$25,000), but shall not include work performed under a rehabilitation or manpower training program.*

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