

## No. 2002-103

## AN ACT

## HB 1458

Amending the act of August 9, 1955 (P.L.323, No.130), entitled "An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto," further providing for bonds for county officers, for bonds of deputies and other appointees, for taking money and property by gift, for creation of a capital reserve fund, for the operating reserve fund, for billing and collecting by the county treasurer, for functions of the controller, for custody of documents, for books of fiscal affairs, for claims against a county, for reports to commissioners, for fees of witnesses and jurors, for receipts and accounts of money due a county, for preparation of proposed annual budget, for amending budgets, for levies, for tax rates, for appropriations, for filing the budget, for notice and for the preparation of uniform forms; providing for refusal to submit to examination and for the procedure for approval; and making an editorial change.

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

Section 1. Sections 420 and 429 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, are amended to read:

Section 420. Official Bonds; Requirements.—Each of the following officers, before entering upon his official duties, whether he is elected, appointed or appointed to fill a vacancy, shall give and acknowledge a bond to the county:

- (1) Each county commissioner;
- (2) The chief clerk of the county commissioners;
- (3) The controller;
- (4) The county treasurer;
- (5) The prothonotary;
- (6) The sheriff;
- (7) The coroner;
- (8) The clerk of [the court of quarter sessions and oyer and terminer]

*courts;*

- (9) The clerk of the orphans' court; and
- (10) The recorder of deeds.

Every such official bond shall be, joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of the Commonwealth. *Counties may purchase insurance for their elected and appointed officials in lieu of fidelity bonds provided that the insurance policy covers the same events of loss and insures the county against the same misconduct as a fidelity bond in compliance with this article.*

Section 429. Bonds of Deputies and Other Appointees of County Officers.—The deputies and other appointees in each county office, who are

required to receive, account for, or hold any money by virtue of their office or employment, shall give and acknowledge a single bond covering all such deputies and appointees payable to the officer in whose office they are employed.

Every such bond shall be, joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of the Commonwealth. *Counties may purchase insurance for deputies and other appointees of county officers in lieu of fidelity bonds provided that the insurance policy covers the same events of loss and insures the county against the same misconduct as a fidelity bond in compliance with this article.*

Each such bond shall be conditioned for the faithful accounting and payment, according to law, of all money received by each deputy and appointee bonded, and shall be taken in the name of the county officer in whose office they are employed, and shall be for the use of that officer, the county and of the Commonwealth, and for the use of such other party or parties for whom he shall collect or receive money as the interest of each shall appear in case of a breach of the conditions thereof. Each such bond shall be placed in the custody of the controller, except those covering employes in the office of the controller, which shall be filed in the office of the county commissioners.

Section 2. Sections 510, 512 and 513 of the act are repealed.

Section 3. Section 1701.1 of the act, amended or added June 25, 1968 (P.L.257, No.121), December 13, 1982 (P.L.1205, No.276) and June 18, 1998 (P.L.619, No.79), is amended to read:

Section 1701.1. Billing and Collection of Third, Fourth, Fifth, Sixth, Seventh and Eighth Class County Taxes.—(a) The county commissioners of each county of the third, fourth, fifth, sixth, seventh and eighth class may, by resolution, provide for the billing and collecting *by the county treasurer* of all county and county institution district taxes levied within a third class city by the authorities empowered to levy such taxes.

(a.1) The county commissioners of each county of the *third*, fourth, fifth, sixth, seventh and eighth class may, by resolution, provide for the billing and collection of all county taxes in municipalities existing or organized under the act of April 13, 1972 (P.L.184, No.62), known as the "Home Rule Charter and Optional Plans Law," that have eliminated the elective office of tax collector, by the authorities empowered to levy such taxes.

(b) In counties of the third, fourth, fifth, sixth, seventh and eighth class [in which], the county commissioners *may* provide, by resolution, for the billing and collection of all county and county institution district taxes levied in third class cities[, the]. *The* county commissioners shall have the power and authority by resolution, to vest in the county treasurer the duties and responsibilities of billing and collecting county and county institution

district taxes[.] *in third class cities. The resolution shall be adopted by the county no later than the first day for the circulation of nomination petitions for the office of tax collector within the county and shall take effect upon the first day of the next succeeding term of office of tax collector following adoption of the resolution.*

(b.1) In counties of the *third*, fourth, fifth, sixth, seventh and eighth class in which the county commissioners provide, by resolution, for the billing and collection of all county taxes levied in municipalities existing and organized under the "Home Rule Charter and Optional Plans Law," that have eliminated the elective office of tax collector, the county commissioners shall have the power and authority, by resolution, to vest in the county treasurer the duties and responsibilities of billing and collecting county taxes.

(b.2) Notwithstanding any law to the contrary, if, as a result of a vacancy in the office of elected tax collector in a municipality within a county of the third, fourth, fifth, sixth, seventh or eighth class, an employe or paid official of the municipality is appointed or directed by the governing body of the municipality to assume the duties of tax collector, the county commissioners may, by resolution, provide, until a successor tax collector is elected in accordance with law, for the following:

(1) the county treasurer to have the duties and responsibilities of billing and collecting all county and county institution district taxes levied within the municipality;

(2) payment to the municipality, rather than the employe or paid official appointed or directed by the governing body of the municipality to assume the duties of tax collector, the compensation that otherwise would be attributable to the billing and collecting of county and county institution district taxes levied within the municipality; or

(3) an agreement with the tax collector in an adjoining or conveniently located municipality to assume the duties of the tax collector and receive the compensation that otherwise would be attributable to the billing and collecting of county and county institution district taxes levied within the municipality.

(c) The county commissioners may appoint such other employes as may be necessary to carry out the provisions of this section.

(d) The compensation of personnel and other expenses of billing and collecting county and institution district taxes pursuant to this section shall be paid out of the general fund in the county treasury. The compensation and number of such employes other than the county treasurer shall be governed by the provisions of this act relating to the county salary board. If the county treasurer is designated as the collector of the county and county institution district taxes he shall not receive added compensation for performing such functions.

(e) The treasurer shall be governed by the provisions of the act of May 25, 1945 (P.L.1050) known as the "Local Tax Collection Law" and its amendments.

Section 4. Section 1702 of the act, amended October 1, 1981 (P.L.284, No.96), is amended to read:

Section 1702. Functions of the Controller.—(a) Subject to the power and duty of the county commissioners to manage and administer the fiscal affairs of the county, the controller shall supervise the fiscal affairs of the county including the accounts and official acts relating thereto of all officers or other persons who shall collect, receive, hold or disburse the public **[moneys] assets** of the county. The discretionary powers of the controller shall not be applicable to the management of the fiscal policies of the county commissioners, or to matters not involving the accounts and transactions of officers or other persons of the county[, **but the controller shall**]. *The controller may only* refuse to authorize any fiscal transaction which is, by law, subject to his supervision or control where it appears that such transaction is not authorized by law, or has not been undertaken according to law, or has not received approval according to law, or as to which he desires upon reasonable grounds to investigate for or has already discovered any fraud, flagrant abuse of public office or any criminal act or neglect of any officer or other person of the county relating to their public accounts and transactions. He may at any time require from any such officers or other persons, in writing, an account of all **[moneys or property] assets** which may have come into their control. Immediately, on the discovery of any default or delinquency, he shall report the same to the commissioners **[who shall immediately take action to recover the money]** and to the district attorney of the county for such prosecution as may be warranted, and shall take immediate measures to secure the public **[moneys or property] assets**.

(b) Pursuant to subsection (a), the county commissioners may, for the purpose of meeting Federal or State requirements, contract with or employ an independent *certified public accountant or* public accountant for the purpose of preparing or conducting a report or audit of the fiscal affairs of the county, independent of and/or in addition to, that conducted by the county controller or auditors. *Such contracts shall be discussed with the controller prior to execution, and the controller shall be afforded an opportunity to comment.*

Section 5. Sections 1704, 1705, 1727 and 1750 of the act are amended to read:

Section 1704. Custody of **[Valuable]** Documents.—The controller shall have the custody of all title deeds to real estate owned by the county, and of all contracts entered into by or on behalf of the county, and of all books, documents and papers relating to its financial affairs, and of all bonds and other obligations issued by said county, when paid. Such bonds and other obligations, when so paid, shall be distinctly cancelled by the controller and

carefully and regularly filed, a register of which cancellation shall be kept by him in a book to be provided for that purpose.

Section 1705. Books of Fiscal Affairs.—The controller shall keep a full and regular set of books *which support financial statements* in [detail, by double entry,] *accordance with generally accepted accounting principles* of all the fiscal operations of the county, embracing as many accounts, under appropriate titles, as may be necessary *to meet Federal and State reporting requirements and* to show distinctly and separately all the property of the county, its [receipts] *revenue* and expenditures, and all debts and accounts due by the county officers or others, and the amount raised from each source of revenue, and the expenditures in detail, and classified by reference to the objects thereof. He shall prescribe *and administer* the form and manner of keeping the *official* books and papers [used by each of the officers of said county] in connection with the fiscal affairs of the county. Where the controller prescribes a [new system of accounting as to the fiscal affairs of the county offices, it] *change in the form and manner of keeping the official books and papers, any costs necessary for implementation* shall be subject to the approval of the county commissioners. *In counties without a controller, the requirements of this section shall be fulfilled by the office of the county commissioners.*

Section 1727. [Commitment to County Jail] *Refusal to Submit to Examination.*—If any person appearing before the controller or auditors for examination shall refuse to take oath or affirmation, or after having been sworn or affirmed shall refuse to make answer to such questions as shall be put to him by the controller or auditors touching the public accounts or the official conduct of any public officers, he shall be guilty of a misdemeanor [and, upon conviction thereof, shall be sentenced to pay a fine of not more than two hundred dollars (\$200), or to undergo imprisonment for not more than sixty days].

Section 1750. Claims Against County.—The controller or the county commissioners in counties having no controller shall scrutinize, audit and decide on all bills, claims and demands whatsoever against the county, except such as are otherwise provided for in this subdivision. All persons having such claims shall first present the same to the controller or to the county commissioners [as the case may be] and, if required, make oath or affirmation before him or them to the correctness thereof. The controller or the commissioners, as the case may be, may, if he or they deem it necessary, require evidence, by oath or affirmation, of the claimant and otherwise that the claim is legally due and that the supplies or services for which payment is claimed have been furnished or performed under legal authority. He or they may inquire or ascertain whether any officer or agent of the county is interested in the contract under which any claim may arise, or has received or is to receive any commission, consideration or gratuity relating thereto, or whether there has been any evasion of the provisions of this act by making two or more contracts for small amounts which should have been in

one. If he or they shall find that there has been any evasion, or that any such officer or agent is so interested, he or they shall refuse to approve the claim.

Section 6. Section 1751 of the act, amended July 1, 1978 (P.L.723, No.129), is amended to read:

Section 1751. **[Voucher Check System] Procedure for Approval.**—The controller shall **[draw and certify vouchers for] date, upon receipt,** all bills, claims and demands presented to him, which he approves and only for such as he approves, and shall forward **[the vouchers together with checks therefor with]** the bills, claims or demands **along with checks therefor** to the county commissioners for their approval **or, if already approved by the commissioners, for their signatures as provided in this section.** If the county commissioners approve **[a voucher] payment of a bill, claim or demand,** at least two commissioners shall sign the check as properly drawn upon the county treasury. In such cases facsimiles of their signatures may be used. The bill, claim or demand**[, and the voucher therefor,]** shall be returned to the controller for filing in his office and the check shall be forwarded to the county treasurer. The county treasurer shall sign the check as his draft upon the county treasury, but he shall not sign any check not already signed, as herein provided, by the commissioners and the controller. **[Vouchers shall be numbered serially before the controller forwards them to the county commissioners and every check incident thereto shall bear the same serial number as the voucher] Every check issued shall include reference to its corresponding bill, claim or demand** as well as the number or numbers which may be put upon it by the county treasurer. If the county commissioners refuse to approve any bill, claim or demand, they shall return the same together with the **[voucher and]** check involved to the controller for filing in his office. In counties not having a controller, the county commissioners shall approve each transaction and the **[voucher and]** check shall be drawn by their chief clerk who shall keep files of the bills, claims or demands involved **[and of the vouchers].** At least two commissioners shall sign the checks either personally or by facsimile, and they shall be forwarded, **[as hereinbefore provided,] together with a check register or similar description of the corresponding bill, claim or demand providing a clear description of the nature and purpose of the expenditure,** to the county treasurer for his signature. In all cases the cancelled checks **or official bank record thereof** shall be filed in the office of the county treasurer, but he shall transmit, at such times as the controller shall establish, a list of all checks paid from the county treasury and not previously transmitted, **[giving their voucher serial numbers] along with appropriate identification.** The county treasurer and the controller in those counties having a controller are authorized to use a facsimile signature on any check **[for the payment of wages or salaries of county employes]** which they are required to sign. **Nothing in this section shall preclude the receipt or transfer of funds to or from the county, or payment of a bill, claim or demand, by electronic fund transfer, provided**

*that adequate and recognized fiscal and procedural controls, together with proper system security, are in place.*

Section 7. Sections 1752, 1753, 1754 and 1760 of the act are amended to read:

Section 1752. Claims Not Approved by Controller.—If the controller does not approve a claim, bill or demand presented to him, he shall within thirty days forward it to the county commissioners together with his notice that he has [refused] *disapproved the claim, bill or demand or is unable to approve the same and his reasons therefor.* The county commissioners shall consider the claim, bill or demand and, if they consider that it should be paid by the county, they shall so notify the controller. If the controller thereafter continues to refuse his approval no payment shall be made thereon by the county except pursuant to an order of court upon a proper issue thereto directing the controller to approve payment.

Section 1753. [Controller's Register of Vouchers;] Reports to Commissioners.—[The controller shall keep a register of all vouchers drawn and a copy of each voucher. When the check or checks drawn upon each voucher has been paid by the treasury the controller shall cancel the voucher or otherwise indicate the payment.] The controller shall report to the commissioners monthly or oftener, if required by them, the amount of outstanding checks registered and the amount of money in the treasury or the amount of any particular unencumbered appropriation items involved.

Section 1754. Fees of Witnesses and Jurors.—Fees of jurors and witnesses shall be ascertained by the courts of the county entered upon the records thereof and duly certified by their respective clerks to the commissioners being first sworn to or affirmed before the controller or the chief clerk of the commissioners as the case may be. The commissioners, then, may draw [voucher] checks therefor without approval of the controller. The certificates shall be filed with the controller or the commissioners where there is no controller after the [voucher] checks are issued.

Section 1760. Receipts and Accounts of Money Due County.—The county treasurer shall receive and receipt for all moneys due or accruing to the county. He shall keep proper accounts of all moneys received and disbursed. His books shall be, at all times during office hours, open to the inspection of the controller[, or] *and* the commissioners, or any of them in counties having no controller. He shall issue receipts, at least in triplicate, for all moneys received for the county, and shall transmit the duplicate or triplicate thereof daily to the controller, or to the county commissioners in counties having no controller. Said receipts shall be serially numbered, shall indicate the amount of money received, from whom, on what account and the date. He shall likewise keep daily records of all disbursements from the county treasury, and shall forward daily records thereof to the controller, or the commissioners as the case may be. The controller, or the chief clerk of

the commissioners where there is no controller, shall have the right to a certified daily or monthly deposit slip from the county depository or depositories, without prejudice to the said depositories, of all moneys deposited in the name of the county by the treasurer. In counties having no controller, the treasurer shall render, at least quarterly and oftener, if required, a statement of all moneys received and disbursed since his last statement, showing the balance remaining in his accounts and the names of the collectors having arrearages in taxes with the amounts thereof. He shall state his accounts at the end of each fiscal year, **[producing his vouchers,]** which statement **[and vouchers]** shall be examined by the commissioners and delivered by them to the auditors for settlement.

Section 8. Sections 1781 and 1782.1 of the act, amended or added December 14, 1967 (P.L.831, No.357), are amended to read:

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

(b) **[The] *At the request of the commissioners, but in no case less than sixty days prior to adoption of the budget by the commissioners, the*** controller shall transmit to the commissioners a comparative statement of revenues for the current and the immediately preceding fiscal year, and a comparative statement of expenditures, including interest due and to fall due on all lawful interest bearing debts of the county for the same years. ***In counties where the controller is a participant in the development of the budget, the controller shall also include balances projected for the close of the current fiscal year.***

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

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

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

Section 1782.1. Amending Budget; Notice.—During the month of January next following any municipal election the commissioners of any county may amend the budget and the levy and tax rate to conform with its amended budget. A period of ten days' public inspection at the office of the chief clerk of the proposed amended budget, after notice by the chief clerk to that effect is published once in a newspaper as provided in section 110 of



this act, shall intervene between the proposed amended budget and the adoption thereof. Any amended budget must be adopted by county commissioners on or before the fifteenth day of February.

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

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

Section 9. Section 1783 of the act, amended October 5, 1967 (P.L.342, No.147), is amended to read:

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

Section 10. The act is amended by adding sections to read:

*Section 1784.1. Take Money and Property by Gift, Etc.—The county commissioners may take by gift, grant, devise or bequest any money or property, real, personal or mixed, for the benefit of the county.*

*Section 1784.2. Capital Reserve Fund for Anticipated Capital Expenditures.—(a) The county commissioners shall have the power to create and maintain a separate capital reserve fund for anticipated legal capital expenditures. The money in the fund shall be used from time to time for the construction, purchase or replacement of or addition to county buildings, equipment, machinery, motor vehicles or other capital assets of the county and for no other purpose.*

*(b) The county commissioners may annually appropriate moneys from the general county funds, not to exceed ten per centum of the county operating budget, to be paid into the capital reserve fund or place in the fund any moneys received from the sale, lease or other disposition of any county property or from any other source unless received or acquired for a particular purpose. The fund shall be controlled, invested, reinvested and administered and the moneys therein and income from such moneys expended for any of the purposes for which the fund is created, in such manner as may be determined by the county commissioners. The money*

*in the fund, when invested, shall be invested in a manner consistent with the provisions of section 1706 relating to the investment of county funds generally. This subsection shall not be construed to limit the powers of the county to the use of moneys in the capital reserve fund in making lawful capital expenditures.*

**Section 1784.3. Operating Reserve Fund.**—(a) *The county commissioners shall have the power to create and maintain a separate operating reserve fund in order to minimize future revenue shortfalls and deficits, provide greater continuity and predictability in the funding of vital government services, minimize the need to increase taxes to balance the budget in times of fiscal distress, provide the capacity to undertake long-range financial planning and develop fiscal resources to meet long-term needs.*

(b) *The county commissioners may annually make appropriations from the general county fund to the operating reserve fund, but no appropriation shall be made to the operating reserve fund if the effect of the appropriation would cause the fund to exceed ten per centum of the estimated revenues of the county's general fund in the current fiscal year.*

(c) *The commissioners may at any time, by resolution, make appropriations from the operating reserve fund for the following purposes only:*

(1) *to meet emergencies involving the health, safety or welfare of the residents of the county;*

(2) *to counterbalance potential budget deficits resulting from shortfalls in anticipated revenues or program receipts from whatever source; or*

(3) *to provide for anticipated operating expenditures related either to the planned growth of existing projects or programs or to the establishment of new projects or programs if for each project or program appropriations have been made and allocated to a separate restricted account established within the operating reserve fund.*

(d) *The operating reserve fund shall be invested, reinvested and administered in a manner consistent with the provisions of section 1706.*

Section 11. Section 1785 of the act, amended October 5, 1967 (P.L.342, No.147), is amended to read:

**Section 1785. Committee to Prepare Uniform Forms.**—(a) *The [budget and] report forms specified in the foregoing sections of this article shall be prepared by a committee consisting of three representatives from the [Pennsylvania State Association of] County Commissioners Association of Pennsylvania, three representatives from the Pennsylvania State Association of County Controllers, three representatives from the Pennsylvania State Association of County Auditors, one certified public accountant, one member of the Senate and one member of the House of Representatives of the General Assembly, who shall be members of the Local Government Commission, designated by the chairman of said*

commission, and the Secretary of Community **[Affairs] and Economic Development** or his agent who shall be a person trained in the field of municipal finance.

(b) **[Such] Except for the certified public accountant, who shall be appointed by the Governor, such** representatives shall be appointed by the president of each said organization. In the case of representatives of the county commissioners, one shall be appointed from a county of either the third or fourth class, one from a county of either the fifth or sixth class, and one from a county of either the seventh or eighth class. The president of each said organization shall supply to the Department of Community **[Affairs] and Economic Development** the names and addresses of such representatives immediately upon their appointment. Said representatives shall serve without compensation, but they shall be reimbursed by the Commonwealth for all necessary expenses incurred in attending meetings of the committee.

(c) The committee shall meet at the call of the Secretary of Community **[Affairs] and Economic Development** or his agent, who shall serve as chairman of the committee. The Secretary of Community **[Affairs] and Economic Development** may call meetings of the committee, and shall do so at the request of the secretary of either of said associations, but in every case there shall be at least two weeks' notice to each member of the committee of any such meeting.

(d) In preparing the uniform forms for **[both budgets and]** annual reports, the committee shall give careful consideration to the differing legal requirements and needs of the counties of the several classes, producing, if necessary, separate forms for certain classes of counties or groups of classes.

(e) It shall be the duty of the Secretary of Community **[Affairs] and Economic Development** or his agent to see to it that the forms required by this section are prepared in cooperation with said committee. Should said committee for any reason fail to furnish such cooperation, the Secretary of Community **[Affairs] and Economic Development** or his agent shall complete the preparation of the forms. After their preparation, he shall issue said forms and distribute them annually, as needed, to the commissioners, controller or auditors of each county.

(f) It shall be the duty of the Secretary of Community **[Affairs] and Economic Development** to include within the **[budget and]** report forms specified in this article the changes necessitated by the provisions of this act in regard to property, powers, duties and obligations of institution districts transferred to counties and the committee established by this section shall not be responsible therefor.

(g) **It shall be the duty of the Secretary of Community and Economic Development to convene the committee to assist counties in developing appropriate accounting and fiscal practices in compliance with generally accepted accounting principles.**

Section 12. This act shall take effect as follows:

- (1) The amendment of section 1705 of the act relating to generally accepted accounting principles shall take effect the third full fiscal year following the enactment of this act.
- (2) This section shall take effect immediately.
- (3) The remainder of this act shall take effect in 60 days.

APPROVED—The 29th day of June, A.D. 2002.

MARK S. SCHWEIKER