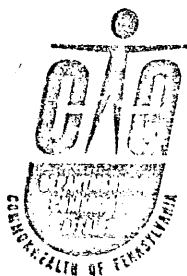


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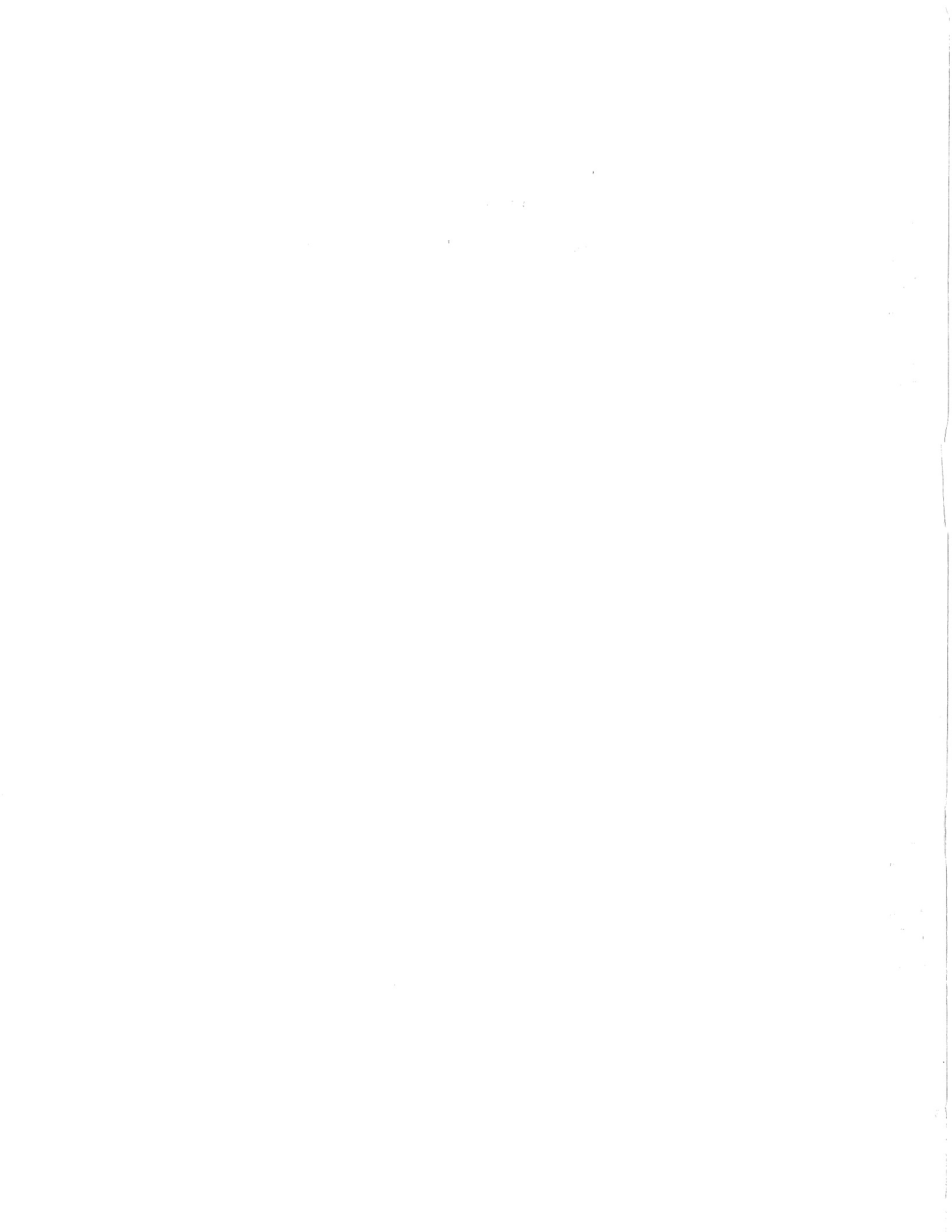
A NEW SYSTEM FOR REGIONAL MUNICIPAL SERVICES

VOLUME I



COMMONWEALTH OF PENNSYLVANIA
RAYMOND P. SHAFER, GOVERNOR

DEPARTMENT OF COMMUNITY AFFAIRS
JOSEPH W. BARR, JR., SECRETARY



AREA GOVERNMENT:
A NEW SYSTEM FOR REGIONAL MUNICIPAL SERVICES

A Report Prepared for
THE DEPARTMENT OF COMMUNITY AFFAIRS
COMMONWEALTH OF PENNSYLVANIA
JOSEPH W. BARR, JR., SECRETARY

BY
BETTER GOVERNMENT ASSOCIATES, INC.
HARRISBURG BRYN MAWR

JULY 1970

CONSULTING SERVICES
IN PUBLIC ADMINISTRATION
AND GOVERNMENTAL RESEARCH
FOR LOCAL, STATE AND
NATIONAL GOVERNMENTS

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August 3, 1970

The Honorable Joseph W. Barr, Jr., Secretary
Pennsylvania Department of Community Affairs
Harrisburg, Pennsylvania, 17120

Dear Secretary Barr:

After review by the Department of Community Affairs and the Steering Committee appointed by the Department to assist in reviewing the research, Better Government Associates, Inc. is happy to present the final draft of Area Government: A New System For Regional Municipal Services.

Throughout the past eight months, we have been working to explore all of the aspects of this exciting Constitutional provision, contained in the newly adopted "Local Government Article." Our work has convinced us that prompt implementation of this enabling legislation is needed. The final determinations of both need and procedure will be made by the General Assembly. We hope that this report will enable your Department to fulfill its leadership role in the affairs of Local Government, in presenting to the Legislature this work.

We are appreciative of the guidance and assistance given to us throughout this study by the Department's Bureau of Research, particularly Mr. Felix Lapinski, Director and Mr. James Guest, Supervisor of Research. Our thanks also go to the members of the special Steering Committee whose insight was of great value in structuring the report and draft legislation.

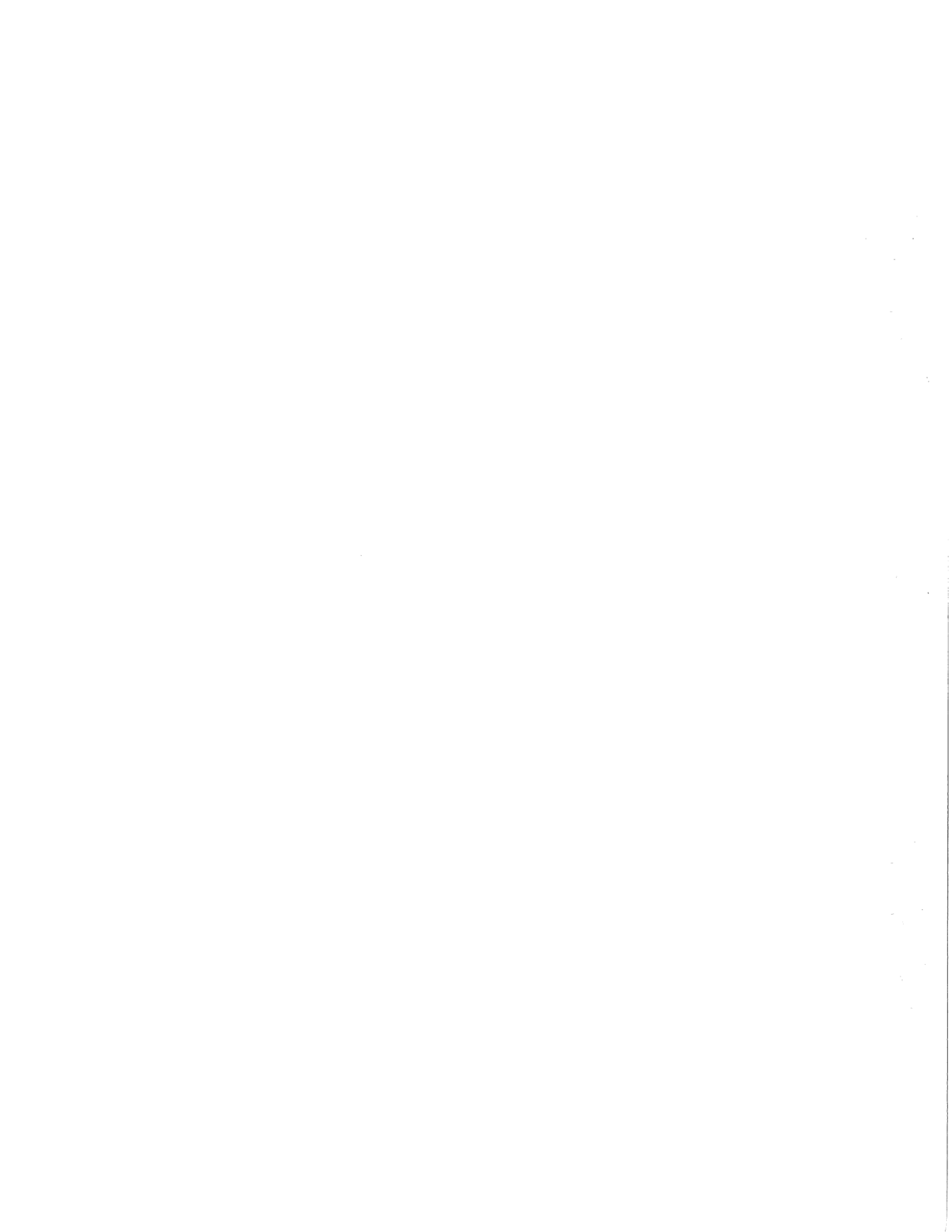
Very truly yours,

BETTER GOVERNMENT ASSOCIATES, INC.



Milton O. Ferguson
Executive Vice President

MOF/jbg





COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY AFFAIRS
HARRISBURG

THE SECRETARY

The attached report, including a draft legislative proposal, was prepared for the Department of Community Affairs by Better Government Associates of Bryn Mawr and Harrisburg. The Department acknowledges the significant contribution to the content of the report made throughout the study effort by a special advisory group consisting of:

Dr. Lyle Fitch, President, Institute of Public Administration,
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Wilkes-Barre College

Dr. Joseph James, Director, Institute of Urban Policy and
Administration, University of Pittsburgh

Dr. Joseph Zimmerman, Professor of Political Science,
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Inc. (formerly, Administrator, Government Studies Center,
Fels Institute)

Mr. Neil Blanton, Program Director, Legislative Commission
on Expenditure Review, New York, New York
(formerly, Director of Financial Research, Pennsylvania
Economy League)

This study was undertaken because of our belief that the provision of "area government" in Article IX of the Constitution could provide a basis for badly needed legislation to provide better quality municipal services throughout areas that now are served by a large number of local units of government. The significance of the area government concept for Pennsylvania local government is that, with the exception of county home rule, it is the only constitutional basis for organizing governmental institutions that are

empowered to plan and deliver public services over large areas -- areas that encompass several local units of government. It is necessary, however, that an explicit concept be developed upon which to base legislation. To this end, this report is being given wide circulation, including members of the General Assembly.

The Constitution provides great latitude in the establishment of area governments and leaves to the discretion of the legislature the form, powers, structure which may be exercised or provided. One of the greatest difficulties confronting the legislature in its development of legislation to implement Article IX of the Constitution is to relate in a logical, comprehensive fashion the many options for local government modernization made available by that article. No one procedure can be regarded in isolation from the other possibilities. There must be an overall strategy or relationship that links the various options so that each discriminates but, taken as a whole, provides the widest possible spectrum of choice by local governments. Each procedure, e.g., consolidation, intergovernmental cooperation, area government, etc. should present a concept for modernization sufficiently different from the other procedures to warrant its inclusion in law. Further, means for adoption of a procedure should be sufficiently flexible to permit all legitimate concerns to be considered and provided for whether they conflict with purely municipal jurisdictional interests or not.

There is nothing new in the concept of consolidation, of annexation, of optional forms of government, or of intergovernmental cooperation. Pennsylvania's laws have for many years recognized these means of bringing about changes in the form or structure of local government. The Constitutional provision of area government, however, provides an opportunity for innovation and devising new approaches for the delivery of municipal services. Perhaps its greatest potential lies in the opportunity it provides for meeting truly area type problems without the loss of identity of political subdivisions. It carries, on the other hand, the danger that its application could lead to an even greater proliferation of local government units.

The essential character of area government is the determination of service area. Since service areas for different governmental functions rarely will coincide, some compromise is necessary if the extension of services on an area wide basis is not to lead to a proliferation of local governments. It seems evident, therefore, that the concept should be applied through the realignment of specific functions or subfunctions between existing levels of government, e.g., transfer of responsibility in whole or in part to the state or county governments or to a new governmental institution that can respond to the needs of a large number of local governments.

The draft bill contained in the report seeks to provide a means for exercising area powers over urban areas encompassing all or portions of more than one county. Although seemingly this appears to ignore the possibility of area government at the county level or even lower, such is not the case. A county home rule charter, for example, can bestow county wide powers and methods of financing. Further, the draft provides that area governments may be established



at lesser levels if approved by a state commission. The draft provides in this respect a flexible but controlled procedure for centralizing delivery of services at the highest feasible level of government, while reducing the possibility of increasing the number of local units of government.

The draft bill contained in the report does not represent a policy position of the Department of Community Affairs. Such a position will be developed on the basis of further study and consideration of other views, including reactions to this report.

A handwritten signature in dark ink, appearing to read "Joseph W. Barr, Jr.", written in a cursive style.

Joseph W. Barr, Jr., Secretary



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I. THE CONCEPT OF AREA GOVERNMENT



I. THE CONCEPT OF AREA GOVERNMENT

The Case for Area Government

In the minds of the delegates to the 1967-68 Pennsylvania Constitutional Convention, area government was an idea whose time had come. The Local Government Article which resulted from the Convention's work, remarkable as it is, contains relatively little that is new in the Pennsylvania local government experience. Much of what is in that article had been treated before in statute, but was through the Convention's action elevated to constitutional status. But, after providing for home rule, optional structures of government, special provisions relating to counties and inter-governmental cooperation, the Convention placed in the Constitution for the first time the concept of area government. Section 6 reads as follows: "The General Assembly shall provide for the establishment and dissolution of government of areas involving two or more municipalities or parts thereof."

The Co-chairman of the Local Government Committee, Louis Mandarinio, explained the proposal this way: "Section 6 does not provide anything which the General Assembly does not now have the power to do, but, again in keeping with the philosophy of the article, it was intended to spell out that the functions, powers and responsibilities in certain cases within the discretion of the General Assembly be provided for in areas rather than in local municipalities." In Section 7, the Convention proposed that the General Assembly could grant powers to area governments. Neither of these sections was approved in the Convention without considerable debate and discussion. Such debate was eventually resolved and the Convention's work was ultimately adopted by the people of Pennsylvania.

It is evident that the Convention, in placing this new concept in the Constitution, hoped that the creation of area government by the General Assembly would help to resolve some of Pennsylvania's local government problems. Pennsylvania has many local governments - counties, cities, boroughs, townships, school districts and municipal authorities - all providing important functions in a growing and urbanizing Commonwealth. With more local governmental units than any state except Illinois, there was serious discussion in the Convention of a proposal to restructure drastically Pennsylvania local government. Such proposals never received the endorsement of the Convention, because, there was a question that this was within the Convention's purview and, secondly, because there was in the Convention, as there is in Pennsylvania generally, a great attachment to the present system - a system which has admitted inadequacies. Many Pennsylvania local governments, by objective standards, do not have the necessary resources of population, area or fiscal capacity to deal with those problems engendered by modern society.

It is obvious that a system of over 2,000 local governments, 90% of which are under 10,000 population, and 40% of which are under 1,000 population cannot always deal effectively with the problems that spill over municipal boundary lines. Recognizing this, the Convention proposed several

alternatives which the Local Government Committee of the Convention hoped could be utilized to come to grips with those problems that are disrespectful of existing municipal boundaries (some of which date, with only minor changes, from the Colonial period).

Three approaches can be identified in the Constitution reflecting the Convention's decision: ① First, to give constitutional status to provisions for inter-governmental cooperation, making possible the actual transfer of a function from one local government to another, or the joint exercising of such functions as local governments may agree among themselves to perform on a joint basis; ② Second, to designate Pennsylvania counties as full-fledged municipalities and open the way for additional powers to be granted to counties by the General Assembly and to permit adopting, through referendum, county charters which would permit counties to exercise any functions that citizens in those counties thought they ought to be able to perform; ③ Third, and for purposes of this report most important, to direct the General Assembly to provide for the establishment of area government.

A reporter for the New York Times described the Convention's work in local government as resulting in perhaps the finest local government article in the nation. It is the purpose of this report to concentrate on the area government portion of the article and on that portion alone. In so doing, there is no intention to slight the other valuable contributions to local government that the Constitution makes possible, nor to de-emphasize the significance of inter-governmental cooperation, or the important role that county governments and chartered municipalities can play in the future. The goal of the Local Government Committee was to provide a set of tools through which local officials and citizens could at their discretion and their judgement construct a new system of local government to serve best the citizens of Pennsylvania. Area Government is one of the tools.

The Role of the General Assembly A noteworthy feature of the area government section is that it leaves to the General Assembly almost total discretion in constructing an area government framework and in deciding which powers should be made available to area governments.

This report, then, is to suggest ways in which the area government section can be implemented by the Pennsylvania General Assembly, in a manner consistent with the general objectives of the Local Government Article and of reasonable application throughout Pennsylvania. Obviously, such a report must necessarily consider and ultimately select from a variety of approaches and suggest those approaches which appear to have most validity within a system which is both numerous and diverse. Pennsylvania has, of course, major cities such as Philadelphia and Pittsburgh, a host of smaller communities in the 10,000 to 80,000 population range and still more small towns, villages and rural areas. As Ralph Widner, Director of the Appalachia Commission, has noted, Pennsylvania has a larger rural population than any state in the Union.

The Study Approach

The approach taken in this study, from December, 1969 through May, 1970, has been to examine, first, instances of known examples of inter-governmental cooperation within Pennsylvania to ascertain if there are factors in such cooperative agreements which lend themselves to further application in area government situations; secondly, to review the literature in the field having a bearing on area government possibilities; third, to examine in some detail widely cited examples of new governments serving substantial populations or geographic areas.

Only after this was done was a tentative concept of area government for Pennsylvania developed. This concept was then tested in three different areas of the state: The Philadelphia region; The tri-county areas of Dauphin, Cumberland and Perry; and the Johnstown area. The concept of area government developed for testing purposes was then modified on the basis of these applications and the modified concepts elaborated upon to put them in the form of proposed legislation.

It should be emphasized that the ultimate purpose of the study is to propose a bill that can be considered by the General Assembly. The Pennsylvania Department of Community Affairs, for whom the study is prepared, can, of course accept, reject or otherwise modify the proposals contained herein. So, too, can the General Assembly, in its important task of bringing this imaginative Constitutional proposal to enactment. (An Appendix to this study contains comments on the experiences in Dade County, Florida, Toronto, Canada and short papers on the application of the working concept of area government to three areas within Pennsylvania. It should be emphasized again that the applications of the concept were based upon the status of the concept at the time of application; the concept has been modified as a result of the application).

not included

Guidelines for the Report

Two guidelines have been uppermost in developing the report; first, a desire to construct a concept of area government which is in keeping with the spirit of other sections of the Local Government Article. It is evident that great reliance is placed throughout the article on action by existing governing bodies of present municipalities, and yet provision is made for direct citizen initiative where governing bodies will not act. A second guideline is the belief that there must be flexibility of approaches. Reviewing the literature in the field of proposed new "super governments", whether they be called metropolitan governments or something else, is a convincing experience that no single approach or set of statutory circumstances can insure the success of new proposals for serving areas and states of substantial diversity. Flexibility, however, ought not to mean such a bewildering variety of approaches toward area government that local officials and electors are so confused that no one knows quite where to begin.

The Independence of the Section It is recognized that the area government section is independent of any other section of the article. Interrelationships between the area government section and other sections are possible, perhaps desirable, but not essential. For example, one area government approach could have combined the idea of home rule charters and make possible chartered area government. This possibility is not ruled out; however, the General Assembly is considering a home rule charter enabling act. This report has been prepared independently of such legislation and the possibility of chartered area governments is neither included nor discouraged.

If it is possible, indeed, desirable, to devise an area government approach which recognizes the Constitutional intent of granting wide latitude to local officials and the electorate, it is also possible, by construing Section 6 as an independent section, to construct an alternative area government approach which is not dependent upon local officials' actions, or upon actions by the electorate through initiative. Section 1 of the Local Government Article states that the General Assembly shall provide by general law for local government within the Commonwealth. This directive gives sufficient latitude for the General Assembly's treatment of area government to be different from those Constitutional provisions relating to initiation of home rule charters, transfer of powers, or optional forms of government. The proposal for area government in this study relies both upon Constitutional procedures for initiation by electors and by governing bodies. It also relies upon the clear authority of the General Assembly to devise a method of creating area government different from anything explicitly stated by the present Constitutional language.

Area Government is Unique

The kind of area government contemplated in this report appears to be unique in the 50 states. As any student of American local government knows, there is an abundance of literature, special studies and reports on restructuring local government to meet the needs of an urban nation. Such reports correctly have concentrated on metropolitan areas. It is believed that a "traditional" metropolitan government approach is not appropriate for Pennsylvania, nor is it in keeping with the concepts of area government discussed at the Pennsylvania Constitutional Convention. This is not to minimize the importance of the efforts of those who would revamp government in metropolitan areas nor to argue that Pennsylvania's metropolitan areas would not necessarily be improved by such revamping. It is clear, however, that the area government proposal adopted by the Convention contemplates something different from that which has been previously discussed in the literature. This report attempts to make a clear distinction between metropolitan government and area government. They are not one and the same thing and the suggestions in this report are intended to be of equal applicability throughout Pennsylvania, depending upon the needs and wishes of the electorate and the special situations confronted in these regions.

Perhaps the best prelude to the conclusions of this report can be found in examining the recent report of the Committee for Economic Development, "Reshaping Government in Metropolitan Areas." Although this report is aimed at metropolitan areas, a number of the comments are relevant to the Pennsylvania scene. "Fragmented local governments reflect great variations in character and viewpoint. The fact that fragmentation persists indicates a determination among local communities to control their own affairs and preserve their own identities. While this attitude makes for greater local pride, it also results in failure of local communities to unite on matters of area-wide concern, such as environmental pollution and transportation congestion, which seriously undermine the quality of metropolitan life. The question to which this statement is addressed may be stated quite simply: Can existing forms of government in metropolitan areas be modified to permit solutions of area-wide problems and at the same time permit local communities to manage their own affairs and maintain their own identities?"

It is precisely to this question that this report is directed, except that it is addressed to the broader question of local governments throughout the Commonwealth. It is not limited to metropolitan areas. To restate the Commission's words: "To permit local communities to manage their own affairs and maintain their own identities" and at the same time, resolve area-wide problems which demean the quality of modern life.

Relations with Present Municipalities In addition, then, to the two elements previously identified - those of fashioning an area government approach consistent with the philosophy of the Local Government Article and yet at the same time recognizing the General Assembly's authority to establish area governments in ways which may differ from patterns elsewhere in that article - the third and most important consideration has been the role area government would play in relationship to existing local governments. Area government, it is anticipated, faces predictable failure if it is equated with metropolitan government or consolidation. Instead, area government must represent a new approach, encompassing existing municipalities but not obliterating them, and at the same time providing options so that area government can become what citizens need and want it to become.

A concept of governmental "tiers" is helpful in describing the role of area government. A one-tier concept has a single government in which is invested all local power and which performs all local government services. A two-tier relationship involves two levels of local governments where powers and services are distributed between the area government and the sub-area municipalities. Similarly, a three-tier approach involves three levels and might be used in multi-county, interstate areas.

The concept of area government here proposed is that in all cases it should be a second or third tier of local government.

Creation of area government, then, in no way should destroy existing municipalities. If larger first-tier governmental units are thought desirable, these can be accomplished without recourse to area government. Annexation, consolidation and chartered counties are avenues to this end; area government is not. This approach to area government recognizes those forces in our society tending toward consolidation and centralization, in an effort to provide more adequate governmental services for all citizens. At the same time, such an approach recognizes the much more recent tendency toward decentralization; toward community control. It recognizes that most governmental units in Pennsylvania have historic foundations that are not easily disturbed. The creation of area government is not intended to disturb them.

II. THE CREATION OF AREA GOVERNMENT



II. THE CREATION OF AREA GOVERNMENT

If area government is to succeed, or be worthy of succeeding, it must demonstrate an ability to come to grips with problems in better fashion than existing units of local government. In other words, area governments must represent a more rational approach to resolving what are clearly area-wide problems than do the existing municipalities, in terms of area, population, financial resources and managerial capabilities. The cause of area government will not be served by concepts which permit the proliferation of area government, providing yet another overlapping layer of local government atop the more than 2,000 units of counties, cities, boroughs, townships and hundreds of special purpose authorities which Pennsylvania now has.

The Constitution defines an area government simply as one which crosses municipal boundary lines. Surely it is within the power of the legislature to add additional limitations and restrictions which would preclude a complex and unnecessary proliferation of area governments. Of highest priority is the development and acceptance of a definition of area governments in the Commonwealth, better suited to the resolution of area-wide problems, and the enhanced delivery of area-wide municipal services.

The Determination of Service Areas

Making area government geographically compatible with services the area government would perform is a difficult task and is made more difficult by the fact that service areas for different functions may be far from identical. If rational service areas are a keystone of the area government proposal, and they should be, then some device must be found through which these rational service areas, and ultimately an area government encompassing them, can be brought about. It would seem that there are two places where the ability to determine reasonable service areas can be demonstrated. First, at the local level, where citizens and local officials are most directly involved with and most conscious of problems created by fragmented municipal governments. These groups have the ability, and should be provided the opportunity, to propose the geography of an area government consistent with the function or functions the area government is supposed to perform. The second location for objective determination of service needs, involving more than one municipality, is at the state level. Present state government departments are involved in programs related to existing municipal programs, have staff capacity and access to current studies, which place them in a good position to evaluate the necessity and desirability of area government.

Neither local citizens nor local officials nor the state government is in a position to propose area government without a substantial degree of investigation and study. It is a disservice to the concept of area government to think that a question can be placed upon a ballot "shall area government be created for such and such an area?" without extensive preliminary investigation. The investigative role then becomes a crucial one in the area government concept.

The Role of the Inquiry Commission

The first step in creating area government is the creation of what is here proposed to be called an "inquiry commission". The inquiry commission is charged, not with the relatively simple task of the charter commissions under Pennsylvania's Third Class City Optional Charter Law, where a choice is made from one of three forms of government, nor is it charged with what may develop into the relatively simple task of a charter commission in preparing a home rule charter. Instead, the inquiry commission would be asked to make a careful examination of the area from which it has been elected, determine what area-wide problems exist, ascertain whether area government is an appropriate mechanism for the resolution of these problems, select a structure of government, and determine which functions the area government should have and how these functions will be shared with the existing municipalities within the proposed area government. This investigation is one of considerable magnitude and will require more time and staff and funds than anything previously experienced in Pennsylvania local government. Provision is made, therefore, for funds to be appropriated by the State, through the Department of Community Affairs, to the inquiry commission, to hire such staff and consultants as it deems necessary to carry out its preliminary study. The inquiry commission would also be given authority to utilize any report prepared by or for any municipality or municipal authority or governmental agency outside or inside the area encompassed by the inquiry commission.

The actual mechanics of forming the commission at the local level would be by initiation of the electors, generally following the initiative provisions of the Constitution or by action of a majority of the governing bodies. If initiated by electors, petitions would be circulated in areas proposed to be included within the inquiry commission study.

The Commission on Area Government

Area government has emerged as a possibility of such importance for Pennsylvania's future that it ought not be dependent, for initiation, solely upon citizen initiative or the consent of governing bodies. Promising though these avenues may be, it is possible, but unlikely, that governing bodies will consent to the establishing of an inquiry commission which may recommend an area government to perform an important municipal function now being performed, or perhaps performed badly, or perhaps performed not at all, by existing local governments. The possibility for citizen initiative is greater, but it must be recognized that initiation of an inquiry commission by citizens is a time-consuming task which may not receive much assistance from the established political parties in the area. What citizen initiative will require, of course, is area-wide leadership of a nature that has not made itself felt very often in the past. It is essential, then, that area government potentialities for Pennsylvania not be completely frustrated by lack of a way in which it can come into being. The stakes are simply too high.

For this reason it is proposed that an alternative method of establishing area government be prescribed in the legislation; a method that has no precedent in Pennsylvania's local government system. The alternative proposal is a Commission on Area Government - a state agency consisting of five members;

three appointed by the governor with the consent of the Senate, the chairman of the Senate Local Government Committee and the chairman of the House Local Government Committee. These members would not be salaried, but would receive compensation on a per diem basis at \$150 and would receive expenses for commission business. The Secretary of Community Affairs would serve as secretary to the commission, but would have not vote. The Commission would have its own staff and, in addition, could rely on the staff that it would assemble from agencies having special competence with certain area government functions. It could also use such staff as the Department of Community Affairs could make available to it, and would, hopefully, enjoy close working relations with the State Planning Board and other appropriate state agencies.

The commission would be authorized to make studies, either upon request or upon its own initiative, of possible area government applications, if it were persuaded that a part or certain parts of the state would particularly benefit from area government. After an exhaustive study it could present such a recommendation to the General Assembly. The study would describe the area, the function to be performed and how having this performed by an area government would result in an improved service capability, improved quality of life in the area and other matters of this kind. It would propose an area government structure, a means of financing area government functions, and a schedule for these events to take place. Such a study or studies would be presented to the General Assembly not later than February 1st of any year. The Assembly would have 120 days in which to consider the proposal and, unless the proposal were disapproved by both houses of the legislature, it would become effective on the dates indicated in the schedule.

The concept of a Commission on Area Government with authority to propose, and, with the General Assembly's consent, to implement actual area governments in Pennsylvania is clearly a radical proposal - radical in the true sense of the word, not the imprecise political terminology that is occasionally used. It is a means of getting at the root causes of local government service disarray, in attempting to come to grips with those problems spilling over tens and even hundreds of fragmented local governments throughout Pennsylvania. There are, of course, elements of danger in proposing this kind of commission but since the General Assembly would have to consent to whatever kind of proposal was made by the commission, the public interest ought to be adequately safeguarded. Realistically, the greater danger is that the commission may not act with concern, dedication and determination and with adequate funds supplied by the General Assembly to make the kinds of studies that are so desperately needed in certain portions of our state.

Area Government Commission Review

These alternative approaches to creating area government - the inquiry commission, initiated either by citizens or governing bodies, and the Commission on Area Government approach - do cross paths at one point. The inquiry commission, in making the same kind of report locally as the Commission on Area Government might be making, from a state vantage point, for a particular area, must, when the report is completed, submit copies of the report to the Commission on Area Government.

This is desirable because it is important that the area government have rational service areas corresponding to the functions it proposes to perform. Local inquiry commissions are certainly capable of ascertaining this, but it must be remembered that the local inquiry commission can study the area, and only the area, from which it was elected. It has, and should have, no authority beyond boundaries of the municipalities from which the inquiry commission was elected. Its report needs the review by an objective agency which can assent to the proposed area government functions the inquiry commission suggests and determines whether the service area for these functions is consistent with and relevant to the functions themselves. This is the major task of the Commission on Area Government in reviewing the inquiry commission's report. The Commission on Area Government would have no authority to interfere with a local recommendation on the structure of government, on the proposed salary schedules for area government officials and for the staffing of the area government. It would, however, have substantial review powers in determining whether or not the area government service area proposed by the local inquiry commission is consistent with the functions the area government should perform. The Commission on Area Government would have 90 days in which to review the inquiry commission's report.

Two courses of action are open to the Commission: to approve the report, in which case the Commission's letter of approval would become part of the inquiry commission's report; or to reject the report on the grounds, and only on the grounds, that the service area within the area government is not compatible with the function to be performed. The Commission would have the authority, for example, to reject an inquiry commission proposed area government report that would assign sewage disposal functions to the area government, if the Commission on Area Government ascertained that the realistic sewage disposal service area needed to be larger than that contemplated in the inquiry commission's report. The Commission on Area Government would have the responsibility of informing the inquiry commission specifying what additional municipalities must be included to make a rational service area.

If the inquiry commission is informed by the Commission on Area Government that its report is approved, it can proceed to place the question of establishing an area government on the ballot. If, on the other hand, the inquiry commission is informed that the Commission on Area Government has rejected its proposal, then all inquiry commission proceedings come to a halt. It would be possible for inquiry commission proceedings to be restarted, if within a two year period, those municipalities which have been determined by the Commission on Area Government as essential parts of the area government decide to join the study. Such a decision would be made by initiative of the electors and subsequent approval at an election, or by action of the municipal governing body. If several municipalities are involved, a combination of electoral decisions and governing body resolutions would be satisfactory. If additional municipalities join the inquiry commission study group, the study would proceed and shall include the newly added municipalities. The amended inquiry commission report, based on such inclusions, would then be resubmitted to the Commission on Area Government for a second review. Following this review, if favorable, the question would be put to referendum in the area.

The Area Government Question

The question would indicate the kind of kinds of functions to be performed by the area government structure proposed in the inquiry commission's report. It could indicate that the area government would perform all area government functions permitted in the enabling legislation or only one, or two, or more of them. If a majority of those voting on the question in the entire area approved, the area government would come into effect, according to the schedule established in the inquiry commission's report, with such powers and means of financing as recommended by the inquiry commission. It is important to note that the inquiry commission would have the authority to propose an area government in which area government powers were shared with existing municipalities. Area government powers would not necessarily be exclusive to the area government. They could be, depending upon the findings of the inquiry commission and, of course, the decision of the voters.

The final step in the creation of an area government in every instance would be action by the voters or consent by the General Assembly. Through careful study, either by an inquiry commission elected in the area on a non-partisan basis, or by a similar kind of study by the Commission on Area Government at the state level, an orderly pattern to best serve the needs of citizens of a particular area can be accomplished. Area government becomes, then, not a helter-skelter patchwork application, but a carefully designed mechanism to provide a better delivery system for crucial municipal services of area-wide importance. Even the inquiry commission and the Commission on Area Government are limited and guided by a definition of area government. As proposed in the legislation, an area government is

"a general purpose unit of local government including at least one municipality of 10,000 or more population or contiguous municipalities having in the aggregate at least 25,000 people, whose authority extends across municipal boundary lines to encompass a given area; further provided that no area government shall be created in a standard metropolitan statistical area encompassing less than urbanized portions of the area, except as approved by the Commission on Area Government; the powers of the area government shall be specified by statute and shall include the power to raise revenues and establish service districts."



III. THE ORGANIZATION AND STRUCTURE OF AREA GOVERNMENT

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The Choices Available

Most Pennsylvania municipalities now have a choice of two forms of government, commission and council-manager plan. A few - those third class cities which have elected charter commissions - have had available to them three structural forms; the two just mentioned plus the mayor-council plan. Even Pennsylvania counties, long noted for their single governmental structure characterized by the election of many officers, will have choices when the legislature implements the optional structure provisions of the new Local Government Article. Area government should have choices and it is proposed that the area government would be governed by, in all cases, an elected council with three possible variations of executive leadership - an executive, chosen by popular vote throughout the area; a manager, appointed by council and serving at its pleasure; or a chairman, elected by council from among its own membership.

The first two plans, the executive-council and the council-manager plan, are well known and widely used throughout the United States. The chairman-council plan is not as well known but appears to have some attributes which would be attractive in an area government situation.

The Executive-Council Plan

The executive-council plan, whereby the executive is elected at large, and a council of a minimum of seven members, elected either at large or by district or by combination of district and at large, seems best suited to those areas where strong political leadership is considered desirable. It is generally agreed that a popularly elected executive is in the best position to furnish strong leadership. If the inquiry committee, which will make the recommendation as to which form of government shall be voted upon, deems strong political leadership a necessity for their particular situation, the executive-council plan is an attractive alternative.

The Council

The inquiry commission will also have the task of determining the number of councilmen and deciding the manner in which they should be elected. There is much to be said for at large election; however, the reason for suggesting the possibility of district election or combinations of at large and district election is to at least provide some mechanism for overcoming, in urban areas, the suspicion of inner-city dwellers that area government is an attempt to dilute their political impact. There is little question that this has been one of the most sensitive and troublesome issues wherever a restructuring of government in metropolitan areas has been attempted. There appears to be no clear-cut solution to this problem, but the concept of electing council on a sub-area basis rather than at large at least permits impact by minority groups.

The Council-Manager Plan

The second form of government suggested for area government is a council-manager plan. Well known throughout the United States, it has been limited in application to Pennsylvania because of a lack of a tradition of professionally staffing local government and because many local units cannot or will not pay salaries high enough to attract trained professionals. In fact, in some cities, where charter commissions have recommended this form of government, it has been turned down by the voters. Despite lack of application in Pennsylvania and occasional rejections in cities, the council-manager plan is a good one for situations in which strong political leadership is not of special importance. The council-manager plan has considerable appeal to business and professional people who can understand and appreciate that governmental management may require professionally trained people. Under this plan, of course, the manager would be named by the council and would serve at its pleasure.

The Chairman-Council Plan

The third plan suggested for area government is new to Pennsylvania, although it has some parallels in past and present Pennsylvania practice. The proposed chairman-council plan is, in effect, a variation of the commission form of government found in so many Pennsylvania communities, with an important exception. Once elected by council, he would become the executive officer of the area government. Unlike the commission form of government, each councilman would not head a department of the area government. The council would be a legislative body only, but after having selected the chairman from its own membership, the chairman would become the chief executive officer for the area government and would serve for a four year term.

The basic reason for proposing this kind of structure is, first, its evident success where it has been used in urban area governments in Canada (where the executive power is exercised by a small committee, whose chairman assumes day to day operational authority). The kind of people who might run for election for an area government council might prefer the council's role rather than the elective executive position. The choice of an executive would not be, at least officially, determined until the council had been elected. The council could entrust the executive operations of the area government to that member of council, who by his previously demonstrated skills in the business, or professional, or labor community would appear to have an understanding of the particular kinds of problems to be faced by the area government. Persons who might not offer themselves for the position of elected executive might be willing to serve as chairman when so designated by their colleagues on the area government council.

Apart from the council and the executive (where an executive council plan has been adopted), all other area government officers would be appointed either by the executive officer, or in some instances by him with the consent of the council. There is little purpose to be served by adding substantial numbers of elected officers at the area government level. The controls council can exercise, representing the people, over the executive branch are substantial and provide sufficient safeguards. Although, for example, the area government treasurer would be appointed by the executive, council would name its own certified public accountants to perform annual audits of area government activities.

Council would serve terms of four years and would be elected at the same time or serve staggered terms, at the recommendation of the inquiry commission. If the executive officer is elected, he too would stand for election the same time as council members. Council would have all the legislative powers of the area government. It would have authority to appoint such assistants and staff as it needs to conduct the affairs of the council.

Compensation of Area Government Officers

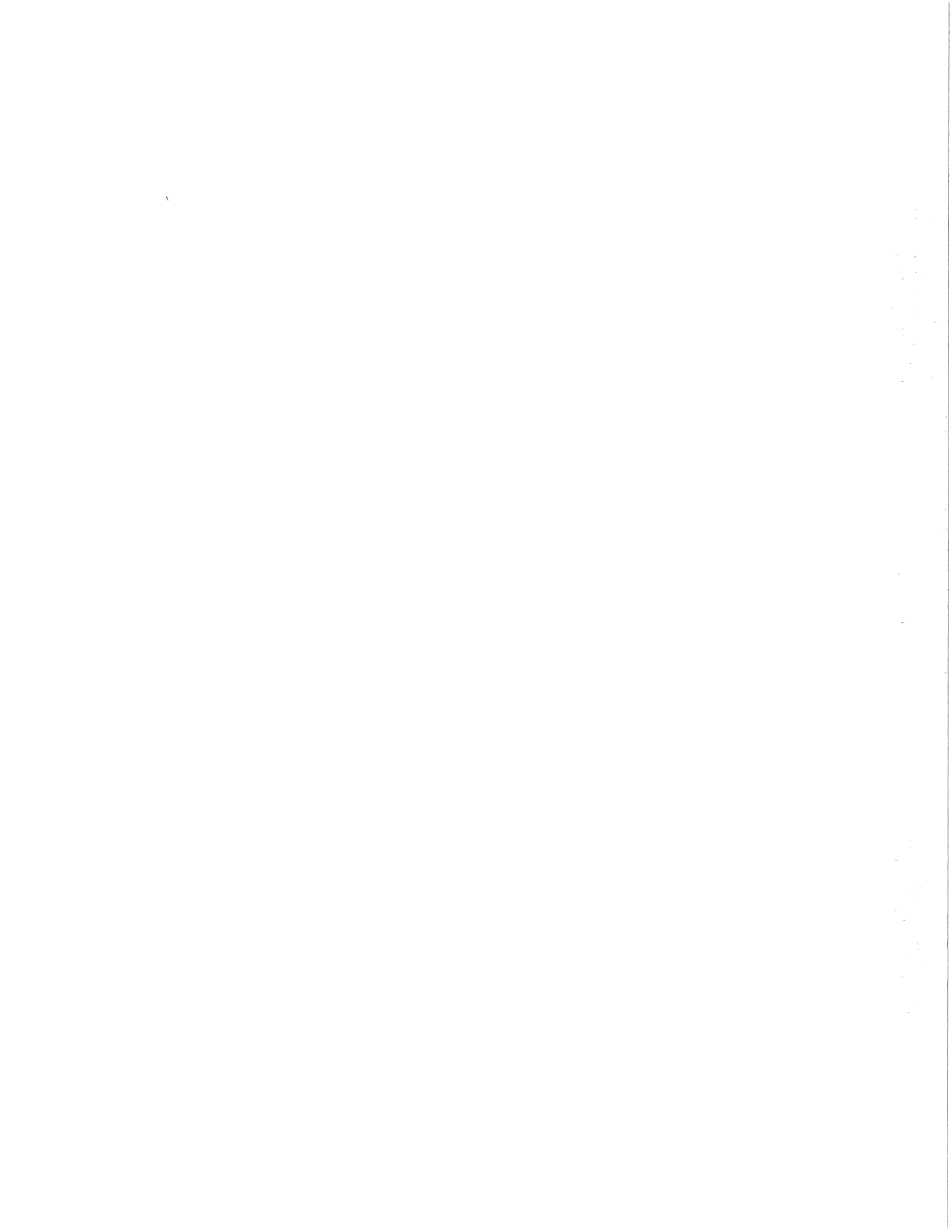
A very important matter - the salaries of the executive, manager or chairman, as the case may be, and of council - is left to the inquiry commission or the Commission on Area Government. As part of the commission's report, a salary schedule for these offices would be recommended. If the commission's suggestion to inaugurate an area government is adopted, this schedule would constitute the salaries for at least the first four-year terms of the first area government council. Council could change salaries but they could not take effect until after the next election. Salaries of appointed officials could be changed by council.

Giving salary making powers to the inquiry commission or the Commission on Area Government is a departure from past Pennsylvania experience. It is virtually impossible, however, to establish such salary schedules in legislation. It is impossible to forecast first, where area governments may exist in the state and secondly, what functions they may be called upon to perform. It is clearly unfair to establish salary schedules based upon area government population alone, without relating this to the kinds of functions the area government is expected to perform. It is believed that such salaries ought to be commensurate with the managerial skills required by the enterprise. The term "municipal corporation" is not often used in Pennsylvania, except by lawyers, but it is clearly what is in mind in this report. An area government is a municipal corporation and it will be one of substantial enterprise. It would require the services and talents of some of the ablest people living within the area. Salaries proposed by an inquiry commission should be sufficient to attract this kind of talent.

Other aspects of area government structure and organization do not differ substantially from general municipal practices in Pennsylvania and throughout the country. The executive, or manager, or chairman would be responsible for preparation of the budget, which would require adoption by the council. Appointment of department heads would be by the executive officer of the area government with consent of council.

Council would have the authority to adopt ordinances, and since the Pennsylvania General Assembly is undertaking to establish uniform procedures for all local government, the manner in which the ordinances shall be adopted, advertised and finally enacted is left to general law enacted by the General Assembly.

The number of possible variations of basic governmental organization structure is endless. Three basic forms of government are here proposed. The differences between them are sufficiently identifiable to give the inquiry commission and the Commission on Area Government a reasonable choice. The proposed organization can be an effective tool, if manned by talented people, for carrying out the powers proposed for area government.



IV. POWERS OF AREA GOVERNMENT

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The Case for Chartered Governments

Among the many tasks facing local inquiry commissions is that of determining what powers should be exercised by the area government. A more basic question this report must address itself to, is, from what powers should the commissions have to select?

There is merit to the notion that area governments should not be limited to a few functions and, to the contrary, should have authority to perform any function that any other municipality in Pennsylvania is empowered to perform. One might also argue, that area governments should be chartered, and the inquiry commission or the Commission on Area Government should also function as a charter commission. Should the charter be approved, the area government could exercise any power not denied by the Constitution or by the General Assembly.

It may be that time will prove that area government ought to have chartered powers. Certainly, the General Assembly can provide this, by amending or including from the very beginning, area government within the home rule charter enabling legislation. It is believed, however, that this course of action is not the wisest one to take at the outset of area government, and perhaps never.

Pennsylvania local government now provides a constellation of options - choices, with no real differences among classes of municipalities. As a result of the Constitutional Convention, the opportunity for charters, structural choices, transfers of function, intergovernmental cooperation, are so great that the constellation may indeed be a bewildering one. The creation of municipal authorities remains an option to provide services within a single municipality or by a group of municipalities. (This option, incidently, has been widely used in the past and represents an excellent vehicle through which particular functions can be performed on something approaching an area basis.) Establishing area government could mean offering a host of structural options, charter opportunities, intergovernmental compacts and a total array of municipal services. On top of the already extraordinarily diverse system of Pennsylvania local government, this approach would not further the objective of providing a reasonably clear choice, either to inquiry commissions, the Commission on Area Government, or most importantly, the voters and the General Assembly.

Ruling out a multi-purpose area government may preclude the exercise by an area government of a function that is unique to a particular area and which might be handled very well through an area government. In spite of this, it is believed that there are generally recognized municipal functions which lend themselves to area-wide solution, whether it is in this state or elsewhere. Area governments ought to have relatively well defined, precise and specific missions; missions which can be undertaken, if in the judgment of the inquiry commission and the electorate, should be the responsibility of the proposed area government. These particular functions should be of importance throughout Pennsylvania and of interest to urban, suburban and rural communities.

Pressure Points

It is believed in proposing a relatively limited number of functions of recognized area-wide importance that the cause of area government will be advanced. The citizen, who is called upon to vote for the establishment of an inquiry commission, can then have an idea of what functions the inquiry commission can recommend. The Canadian experience is helpful. The factors that prompted restructuring of area governments in the Canadian Provinces have been described as recognizing the "pressure points" in the area. These pressure points are defined as public recognition of relatively crucial area-wide problems. Once the public becomes concerned about these things and understands that there is a governmental mechanism which can resolve them, then the public interest is quickened. If area government does represent a possible solution to these problems, then the area government must be discussed in terms of specific powers so that there is public recognition of its purpose.

It should be noted, too, that those functions which traditionally have been the responsibilities of Pennsylvania counties are not included in the proposed area government functions, in the belief that a simple way of resolving these is for counties to do this by intergovernmental agreement or functional transfer.

It is proposed that area government enabling legislation authorize area governments to perform the following functions:

1. sewage disposal
2. water supply and distribution
3. transportation systems
4. refuse disposal
5. parks and recreation
6. planning
7. police protection
8. public health services

These functions were selected on the basis of their meeting, substantially, the following criteria: geographic service area, capitalization, economies of scale, unified management, the avoidance of duplication, public convenience, a commonality of needs, uniformity of services and acceptability. Other functions might be desirable additions, but it is believed that presenting a laundry list of local services only serves to blur the missions of area government.

These authorizations do not mean that each and every area government would necessarily perform all eight functions. The decision about which functions could be performed would be made by local inquiry commissions or the state Commission on Area Government. These agencies would select from the list of eight functions one, or more, or all of which would be recommended to the voters or to the General Assembly. Only those functions selected and approved would be authorized for a particular area government.

Sharing Governmental Powers

Although an area government would be authorized to perform a particular function, the precise method by which the function would be performed would be a matter of local determination. In assigning functions to area government, such assignment does not necessarily preclude the retention of some important aspects of

performing this function by existing municipalities. The degree to which municipalities participate in the provision of such a service is left to the discretion of the inquiry commission. It is recognized that in many areas of Pennsylvania, some or all of these functions are now being performed by present municipal governments. In many instances, they are being performed very well. In such areas, the inquiry commission might recommend a coordinating role for the area government, rather than one of exclusive performance, by the area government alone. Similarly, in other parts of the Commonwealth, many of these functions are not being performed at all, but the desirability for their performance exists now, and the necessity will exist in the future. It is in these instances that inquiry commissions might assign service performance exclusively to the area government.

It is important to leave the broadest possible latitude to local inquiry commissions or the Commission on Area Government, to make a determination of how these particular powers shall be distributed or shared between new area governments and existing municipalities. It may be, for example, that the area government will, through contractual agreements, continue to have municipalities perform aspects of area government functions. In other situations, existing municipal services and facilities may by agreement be assumed and acquired by the area government.

The Role of Present Local Governments The proposed enabling legislation also makes very clear that each and every function which is not authorized for an area government to perform shall continue to be performed by the municipalities and the municipal authorities within the area government as is now provided by law. At the same time, however, the legislation would permit the area government to undertake additional functions, in the manner provided by Section 5 of the Local Government Article of the Constitution. This section provides "a municipality by act of its governing body may or upon being required by initiative or referendum in the area affected shall cooperate or agree in the exercise of any function, power or responsibility with, or delegate or transfer any function, power or responsibility to, one or more other governmental units including other municipalities or districts, the Federal government, any other state or its governmental units, or any newly created governmental unit." It is intended that area government would constitute a new governmental unit within the meaning of this section and could therefore exercise such powers, in addition to those previously mentioned, if functions were transferred to the area government by action of the electors or by governing bodies. The area government, however, would have no authorization to take away any existing municipal functions, except for those specifically authorized through the work of the inquiry commission, the Commission on Area Government and the electors or General Assembly who are responsible for reviewing these commissions' work.

Detailed provisions for specific powers and responsibilities are provided in the proposed enabling legislation. The general approach to the undertaking of any authorized function by an area government is to have the area government first prepare a comprehensive plan for the area, indicating the ways in which the function should be undertaken and performed. For each function, the area government is authorized to build or acquire such capital

facilities as are necessary for the performance of the function, including the acquisition of existing facilities owned by municipalities. In performing each function, the area government would have, in addition to the powers granted by this proposed legislation, all powers conferred by law on municipalities and municipal authorities with respect to this particular function. The legislation permits the establishment of advisory commissions composed of representatives from component municipalities within the area government.

More specifically, if an area government is authorized to perform a function of sewage disposal, it would first prepare a comprehensive sewage disposal and storm water drainage plan for the area. The area government could then acquire, by purchase and other means, facilities for sewage disposal and storm water drainage within the area, including all kinds of facilities necessary for this performance. If sewage facilities were owned by a municipality or municipal authority, they could be acquired or used by the area government. The proposed legislation would authorize municipalities and municipal authorities to convey or lease facilities to area governments, or to contract for their joint use on terms that could be agreed upon between the municipality, municipal authority or the area government.

Water Supply Services

The area government's authority in performing water supply functions would be similar in nature. It would first prepare comprehensive plans for developing sources of water supply, trunk supply mains, and treatment and storage facilities for the area. The area government could acquire by purchase or condemnation and other means water supply facilities within the area. Those facilities owned by a municipality or municipality authority could be acquired or used by the area government and municipalities and municipal authorities operating existing facilities would be authorized to convey or lease them or contract for their joint use with the area government. The area government could, of course, fix rates and charges for water supplied.

Transportation System

The transportation function is perhaps one of the broadest functions envisioned for area government. The area government could acquire or construct any system of surface, underground, or overhead railways, buses, or other means of local transportation, including parking facilities necessary to provide an adequate area-wide transportation system.

The refuse disposal function would be developed and operated according to those guidelines established for previous area government function.

The Area Environment

Developing language for an area government function involving parks, recreation and open space has been a most challenging assignment. It is the intent of the legislation that the area government should be empowered to operate the more traditional park system and recreation facilities and programs. In addition, it is contemplated that the area government should have authority to be responsible for open space programs, which represent a relatively new development in government, particularly in area-wide government. The open space and related programs have generally been grouped under the area of

conservation, so that the area government function includes parks, recreation and conservation. This is intended to be construed as broadly as possible to encompass the whole aspect of the area's environment. It may be that additional language is needed in this area to convey completely the intent, however, it should be remembered that the functional description ought to be worded in such a way that it is understandable to the citizen, who is called upon to vote on whether there should be this area government function.

Distribution of Shared Powers

The role of area government in the planning function is an especially difficult one to provide possible legislation for and brings into focus the concept of distribution of powers between area government and component municipalities. It is difficult to conceive of the planning function as distinguished from the power to enact and enforce zoning ordinances. The proposition in the proposed enabling legislation is that the area government would have planning functions and such other functions as are desirable under the Pennsylvania Municipality Planning Code, with the exception of zoning powers. These would be left with component municipalities, except that the area government planning authority (if such authority is granted to area government) would include the review power over local zoning ordinances and changes proposed for such ordinances.

A similar situation arises in the police protection function. It is anticipated that the area government, even though it could be granted the function, might find it necessary and desirable to contract with, or otherwise arrange with, component municipalities for the continuance of certain police programs now under the jurisdiction of such municipalities. This is another example of the three important roles that would be played by the inquiry commission in determining, almost on a municipality by municipality basis, the nature of shared powers between the proposed area government and existing municipalities.

General Area Government Powers

In addition to the eight specific functions that area governments may be authorized to perform, area governments will have additional powers necessary for the functioning of any general unit of government. The enabling legislation provides, for example, for the acquisition and disposition of area government property. An area government should have and the enabling legislation would provide for the ability to establish such offices, departments, boards and commissions as are necessary to carry out the purposes of area government; to make appointments to and provide for the removal of officers and employees of area government; and to establish salary schedules for such officers and employees.

Personnel Management

No discussion of area government powers and organization would be complete without a discussion of personnel practices. The enabling legislation requires that an area government establish and provide for a personnel merit system for the employment, classification, promotion and demotion of its appointed officers and employees. Such systems would operate purely on the basis of merit and fitness without regard for political influence or affiliation.

In those instances where an area government acquired a facility previously operated by a component municipality, the area government would offer to employ every person employed by such municipality or municipal authority. The rights and benefits of these employees would be continued until the area government has provided an alternative pension plan and the municipal employees have had a chance to elect to participate in such plan.

V. FINANCING AREA GOVERNMENT

V. FINANCING AREA GOVERNMENT

User Charges

Providing funds for area government operations should not be nearly as difficult as one might reasonably suspect. The instances in which area governments must levy taxes for their support should be relatively infrequent, if the powers proposed for area governments are closely examined. Of the eight specific powers which area governments could be authorized to perform, only three could not be supported by user charges. The enabling legislation proposes that area governments in performing sewage disposal, refuse disposal, park and recreation and open space, water supply and other functions could support these by charges upon those persons benefitted by the services. This system of service charges is well established in Pennsylvania law and practice and readily could lend itself for use by area governments.

This is not to say that all services traditionally supported by user charges, for example, transportation systems, should be supported this way in the future. A strong case can be made for the idea that automobile drivers who clog central city streets should have a role in public transportation subsidization.

Taxes for Area Governments

There are, however, certain functions proposed for area government that appear to be best paid for by an area-wide system of taxation. Area governments without assured sources of revenue including the power to tax would create a weak and ineffectual level of government. One of the essential attributes of a general purpose unit of government is the power to tax. Systems of assessments on sub-area governments are desirable but ultimately area governments must have the ability to resort to the taxing power if they are to accomplish the missions for which they are established. Proposing specific taxes to be available for area governments on top of Pennsylvania's patchwork (some would say crazy quilt) system of local taxation is not easy. Any attempt to have area government share existing local taxes would be met with a storm of opposition from local government officials, and any proposal to levy new taxes of a similar nature on top of those taxes already levied by local governments will be met by protest from Pennsylvania citizens who are convinced, despite the fact that Pennsylvania is a low state tax state and a low local tax state, that the present system of taxation is burdensome.

The Objective of Area Taxation

Important as these aspects of the problem are, of greater importance is the larger question of what an area government tax structure ought to promote. It would seem that the desirability of an area government tax program which equitably distributes the burden of paying for area government functions across the entire area in a reasonably fair manner is of greatest importance. One of the greatest reasons for creating area government is to involve those comparatively wealthy suburban and rural communities in paying for area-wide services which central cities in economic decline cannot afford to bear on their own. Keeping this in mind, it is proposed for those functions which are not or

cannot be because of their nature self-supporting, area governments be permitted to levy either one or both of two broad based taxes, one now in existence and the other seriously contemplated in the state. The first idea is to permit area governments to levy a sales and use tax on the same basis and in the same manner as the present Pennsylvania's selective sales and use tax now legally referred to as the Pennsylvania Education Tax. The second proposal is to allow an area government to levy an income tax on the same basis and in the same manner as a state income tax is levied, when and if the state government imposes such a tax.

Either or both taxes would be, in effect, up to 1% levies added on to the existing state tax rate for these two taxes. The tax would be levied by the area government only within its own area and would be collected through agencies now provided by state law for the collection of such taxes and would be remitted to the area government for general governmental purposes.

"Add-on" Taxation

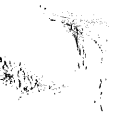
The concept of municipal income or sales tax levies, in addition to those levied by state governments, is reasonably well known throughout the nation and has been used in a number of instances, particularly by larger cities through special state enabling legislation. This kind of taxing proposal for area government has a number of advantages. It avoids the diversion of, or competition for, existing tax sources now employed by Pennsylvania local governments. It avoids the problem of establishing new taxes and new collection procedures within the area served by the area government. And finally, it comes to grips with the problem of intra-area disparities, in those cases where an area government would be serving communities of varying wealth and financial resources, particularly if the area governments are established in metropolitan regions.

It is not anticipated that these two proposed taxes will be met with overwhelming acceptance. They appear, however, preferable to others. It may be that other suggestions can be made which will find greater acceptance. The fact of the matter is that Pennsylvania has a sales tax and sooner or later will have an income tax. Both of these taxes appear to lend themselves to area government use, particularly in overcoming the disparities of fiscal resources that are commonly found among local governments in Pennsylvania.

Again, it should be emphasized that, for the majority of proposed area government functions, additional taxing power should not be necessary. There will be area government services, however, particularly in the fields of public health, planning, and police protection which will require the area government to levy taxes or levy assessments on sub-area governments for the support of these functions. The proposal is, then, to allow area governments to levy up to 1% either in the field of sales taxes or income taxes should the Commonwealth eventually adopt the latter tax as it has adopted the former.

In any event, it is proposed that an area government not inaugurate a new system of tax collection and enforcement. These services would be performed by the Department of Revenue and remittances would be made to the area government levying the tax.

VI. SUMMARY AND RECOMMENDATIONS



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To Lead the Nation

Pennsylvania has an opportunity to lead the nation by the prompt implementation of the area government section of the Constitution. When the General Assembly enacts legislation to establish area government, it will be charting a course unique in the fifty states. Other states have legislation for special metropolitan districts involving only one or a few cities in the state. Still others have enacted legislation leading to city-county consolidations such as Nashville, Dade County, and Indianapolis. What is suggested here for Pennsylvania is unlike anything yet attempted, because it would be as suitable for rural as for urban areas. When enacted, it will permit solutions on an area-wide basis of area-wide problems.

Area government does not represent the only solution to area-wide problems; there are devices in the Local Government Article providing alternative solutions. Area government, it is believed, does represent the best approach to cope with area-wide problems. It is essential that government retain the confidence of the people as an instrument of resolving those problems which are assigned to governmental institutions by our society. Area government represents one of the few, perhaps the only, truly effective solution for multi-municipal problems. The cause of local government is not furthered by neglect and delay in providing for governmental mechanisms to improve the quality of Pennsylvania life.

Centralization and Decentralization

The proposal for area government in this report comes to grips with area-wide problems and at the same time respects the historic identification that many citizens have with their local communities. The proposal leaves with existing governments the greatest amounts of power commensurate with area-wide needs. It respects both the tendencies toward centralization and decentralization in modern society.

The proposed legislation which follows provides for area government initiated by the elected local inquiry commissions or by a state agency to known as the Commission on Area Government. If either of these agencies, after careful study, find that area government is desirable for a particular area, the commissions make proposals indicating what functions the area government would perform, the manner of electing an area government council, and a basic structure of area government. They further provide for a proposed distribution of power between the area government and existing local governments insofar as the particular area government shall finance its area operations, which in most cases will be by service charges on the users of area government services. In every instance, existing local governments retain complete control over any and every function not specifically proposed for the area government.

The commission's proposals must meet one of two tests. They must be agreed to by the electorate of the area through referendum, or they must be agreed to by the General Assembly if the proposal has been suggested by the state Commission on Area Government.

The forms of government suggested in the legislation are in use in Pennsylvania today, with one exception. The proposed chairman council plan would permit the council to select the chief executive from its own membership.

Area Government Functions

The area government would perform one or more of the follow-

ing eight functions:

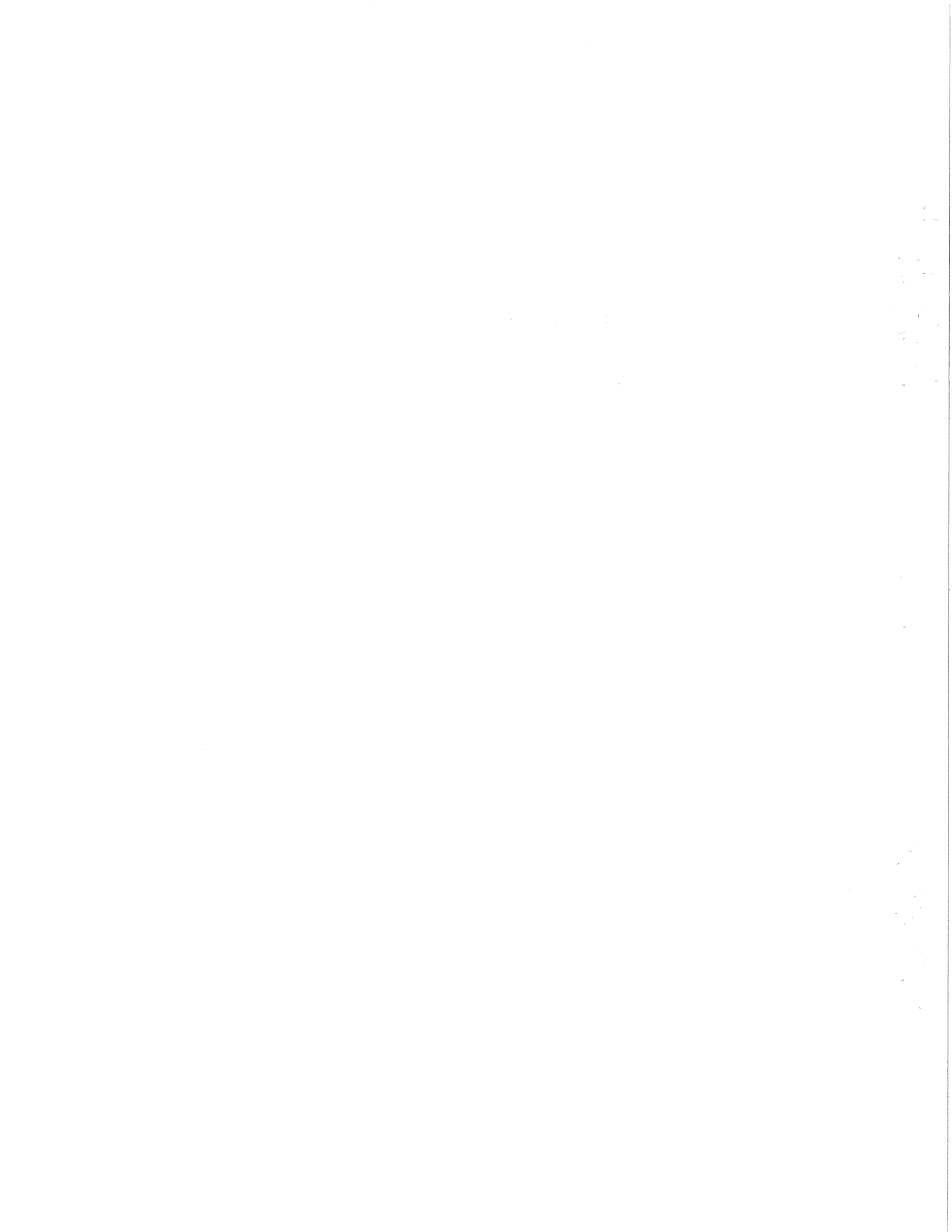
- ✓ 1. sewage disposal
- ✓ 2. water supply and distribution
3. transportation systems
- ✓ 4. refuse disposal
- ✓ 5. parks, recreation and conservation
- ✓ 6. planning
7. police protection
8. public health services

Precisely which of these services should be performed would be proposed by the inquiry commission or by the Commission on Area Government. The area government, once established, would have no authority to perform additional functions unless functions were transferred to the area government by action of municipal governing bodies or by initiative of the electorate as is provided in another section of the Local Government Article of the Constitution.

The area government would be financed for the most part by service charges. It is also proposed in the legislation that area governments have the authority to levy taxes and two particular ones are proposed, an addition to the state sales tax for the particular area, not to exceed 1%, and the same kind of extension of a state personal income tax, should one be enacted in the future.

Finally, as the Constitutional section directs, there is a provision for the dissolving of area governments. Such dissolution would take place in the same manner as the area government is established in the first place.

From the three test applications of area government concepts in Pennsylvania which form one of the appendices to this report, it is believed that there is a demonstrated need for area government. The recent publication of the Committee on Economic Development, "Reshaping Government in Metropolitan Areas", confirms this on a national scale. There is a need, the need is now. The General Assembly, hopefully, will proceed with deliberate speed to enact this enabling legislation.



VII. THE ENABLING LEGISLATION

AN ACT

VII. THE ENABLING LEGISLATION

AN ACT

Empowering two or more municipalities, or the citizens thereof, or, in certain instances, the Commission on Area Government, to establish area government; providing for area government inquiry commissions and providing for the election thereof; requiring area government proposals to be approved by the electorate or be subject to review by the General Assembly; providing for the election and structure of government of area governing bodies, their powers and duties; providing for the financing of area governments, permitting the assignment of additional functions and providing for the disestablishment of area governments.

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

Section 1. Short Title.--This Act shall be known and may be cited as the "Area Government Act."

Section 2. Definitions.--As used herein

(1) "Area Government" means - a general purpose unit of local government, including at least one municipality of 10,000 or more population or contiguous municipalities having in the aggregate at least 25,000 people, whose authority extends across municipal boundary lines to encompass a given area, further provided that no area government shall be created in a standard metropolitan statistical area encompassing less than the urbanized portion of the area, except as approved by the Commission on Area Government; the powers of area government shall be specified by statute and shall include the power to raise revenues and establish service districts.

(2) "Municipality" means a county, city, borough, incorporated town, township or any similar general purpose unit of government which shall hereafter be created by the General Assembly.

(3) "Standard Metropolitan Statistical Area" means areas so defined by the United States Bureau of the Budget, using central cities of 50,000 or more population and including generally non-agricultural areas related to the city.

(4) "Commission on Area Government" means a commission appointed by the Governor, with powers provided in this Act. The commission shall consist of five members: the chairman of the Senate Committee on Local Government, the chairman of the House Committee on Local Government, and three members appointed by the Governor, with the consent of the Senate. The Secretary of Community Affairs shall serve as secretary to the Commission. The Commission shall select a chairman from its members.

(5) "Initiative" means the filing with applicable election officials at least ninety days prior to the next primary or general election of a petition containing a proposal for establishing an inquiry commission, signed by electors in each municipality comprising five per cent of the number of voters voting for an office of Governor in the last gubernatorial general election. The applicable election official shall place the proposal on the ballot in a manner fairly representing the intent of the petition for decision at said election. A similar question shall not be submitted more often than once in five years.

(6) "Referendum" means approval of a question placed on the ballot, by initiative or otherwise, by a majority vote of the electors, in the area proposed for area government, voting thereon.

Section 3. Initiation of Area Government by Electors or Governing Bodies.--

An area government inquiry commission, to examine the possible applications of area government to a particular area, shall be established by action of electors or municipal governing bodies.

(2) If initiated by electors, petitions to place the question of having an inquiry commission shall be circulated throughout the area proposed to be studied by the commission. The proposed study area shall be contiguous and shall include at least one municipality of 10,000 or more population, or have a population in the aggregate of 25,000; furthermore, if the proposed study area is in a standard metropolitan statistical area, the area proposed for study shall encompass at least the urbanized portion of the area, as defined by the United States Bureau of the Census.

Petitions must be signed by electors in each municipality encompassed by the proposed study area comprising at least five per cent of the number of voters voting for the office of Governor in the last gubernatorial general election. The petition shall contain a description of the area proposed for study, naming each municipality within the study area, except that, where entire counties and parts of counties are involved, the name of the county shall be sufficient. The petition shall direct the inquiry commission to consider certain possible functions for the possible area government, selecting from those listed elsewhere in this Act, or the petition may direct the commission to consider any and every function permitted by this act.

(b) If initiated by governing bodies, resolutions to establish an inquiry commission shall be adopted by a majority of the total number of municipal governing bodies in the proposed area for study. Resolutions shall be adopted in accord

with applicable municipal law and shall be adopted within one year. The resolutions shall contain references to the proposed study area and shall otherwise meet the standards set in Section 3(a).

Section 4. Election of Area Government Inquiry Commission. - Petitions or resolutions shall be filed with applicable election officials at least ninety days prior to the next primary or general election. The election officials, if they find the petitions and resolutions consistent with this act, shall cause the question of election of an inquiry commission to be placed on the ballot.

The ballot proposition shall be in substantially the following form(s):

"Formation of Area Government Inquiry Commission"

Shall an area government inquiry commission be created to study possible applications of area government in the _____ area? (Insert names of municipalities or counties or general description of area involved).

Inquiry Commission

OR

Shall an area government inquiry commission be created to study the possibility of an area government performing the following functions:

(Insert name of functions)

in the _____ area?

An inquiry commission of seven members shall be elected at the same election the question is submitted to the electors. Candidates for the office of inquiry commissioner shall be nominated and placed on the ballot in the manner

provided by the Pennsylvania Election Code, except that they shall be nominated and listed without any political designation or slogan. Each voter shall be instructed to vote on the question and, regardless of the manner of his vote on the question, to vote on the inquiry commission members who shall serve if the question is determined in the affirmative.

Section 5.

(a) Candidates for the inquiry commission shall be registered voters of the area proposed for area government consideration. They may be nominated by nomination papers signed by a number of qualified electors of the area equal at least to one per cent of the vote cast for governor in the most recent gubernatorial election and filed with the board or boards of election not less than forty-five days prior to the date of election.

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

(c) Each nominating paper, before it may be filed with the board or boards of elections, shall contain an acceptance of such nomination in writing, signed by the candidate or candidates therein nominated, upon or annexed to such paper, or if the same person or persons be named in more than one paper, upon or annexed to one of such papers. The acceptance shall certify that the candidate is a

registered voter of the area proposed for study, that the nominee consents to stand as a candidate at the election, and that if elected he agrees to take office and serve.

(d) Each nominating paper shall be verified by an oath or affirmation of one or more of the signers thereof, taken and subscribed before a person qualified under the laws of Pennsylvania to administer an oath, to the effect that the paper was signed by each of the signers thereof in his proper handwriting, that the signers are, to the best knowledge and belief of the affiant, registered voters of the area proposed for study, and that the nomination paper is prepared and filed in good faith for the sole purpose of endorsing the person or persons named therein for election as stated in the paper.

Section 6. The result of the votes cast for and against the question as to the election of an inquiry commission shall be returned by the election officers. The votes cast for members of the inquiry commission shall be counted, and the result thereof returned by the election officers. The seven candidates receiving the greatest number of votes in the area shall be elected and shall constitute the inquiry commission; provided, that if a majority of those voting on the question shall vote against the election of an inquiry commission, none of the candidates shall be elected.

Section 7. As soon as possible and in no event later than fifteen days after the election, the inquiry commission shall organize and hold its first meeting and elected one of its members as chairman, fix its hours and place of meetings and adopt such rules for the conduct of its business as it may deem necessary and advisable. A majority of the members of said commission

shall constitute a quorum for the transaction of business, but no recommendations shall have any effect unless adopted by a majority of the whole number of the members of the commission.

Section 8. In case of any vacancy in the commission, the remaining members shall fill it by appointing thereto some other qualified elector.

Section 9. It shall be the function and duty of the inquiry commission to study, within eighteen months following its election, possible applications of area government to the area in question. The commission shall review existing studies and reports concerning the area, with particular attention to public services and facilities, present and proposed, or reasonably anticipated to be needed, considering the population, economics, development, topography and other factors in the area.

Section 10. The inquiry commission shall employ such engineers, planners, economists and other consultants and staff as it deems desirable. Such staff shall serve at the commission's pleasure and shall receive such compensation as the commission decides. The commission may utilize the services, facilities and personnel of agencies of the Commonwealth, including state aided colleges and state related universities. The commission may utilize materials and reports prepared for or by any municipal government or department or agency thereof, or any municipal authority within the study area.

Section 11. The Commonwealth, through the Department of Community Affairs, shall appropriate funds to aid in the commission's work. Funds shall be based on a minimum of 10¢ per capita in the study area, with a minimum grant to any

inquiry commission of \$25,000. In addition, the commission may accept any offer of services or funds made for the purpose of assisting the commission in carrying out its function.

Section 12. The Commission's findings shall include, but not be limited to, the following:

1. description of the area; comments on the quality of municipal services and evidence pointing toward the presence or absence of discernible area-wide service needs. ✓

2. consideration of area government as an effective way of meeting area-wide service requirements. ✓

3. discussion and recommendations for proposed area government functions. ✓

4. determination of the assignment of responsibility for service performance between the area government and present municipalities, municipal authorities, and other governmental agencies. ✓

5. proposed form and organization of area government to accomplish objectives.

6. proposed financial plan for the area government, including provision for acquisition of existing public facilities, if contemplated, nature of assessments or service charges, if contemplated, and anticipated eligibility for state or federal assistance, grants and subsidies. ✓

Section 13. The inquiry commission prior to publication of its report, shall submit copies to the Commission on Area Government, for review and approval. The Commission on Area Government shall have sixty days to review the report. The review shall be limited to a determination of the improved

public services, or coordination thereof, that the area government purports to provide, and that the proposed service area or areas are generally compatible with the geographic area to be served. The Commission on Area Government shall also review the provisions, if any, for financing the area government, with special attention to provisions for acquisition of existing public facilities. In performing this review, the commission may request assistance from the Department of Community Affairs, the State Planning Board and such other state agencies as it deems appropriate.

The Commission on Area Government shall not have authority to disapprove the proposed structure and organization of area government, nor recommendations for staffing the proposed area government.

Commission on Area Government
Section 14. If the Commission on Area Government shall determine that proposed service areas are in accord with the proposed area government boundaries, and that the delivery of public services may reasonably be expected to be enhanced by creation of an area government, the Commission on Area Government shall notify, promptly, the inquiry commission of its findings, and such notification shall become part of the inquiry commission's report.

If the Commission on Area Government, based on its review, finds that no appreciable service benefit would result from the proposed area government, or that proposed service areas are not in conformity with functions to be performed, the Commission on Area Government shall notify the local inquiry commission. Such notification shall list the commission's reservations in reasonable detail, and in the event that proposed service areas are not consistent with proposed functions, shall indicate what additional municipalities or portions thereof should be included.

Section 15. The inquiry commission, upon receipt of the Commission on Area Governments' review shall: (1) if the review is favorable, incorporate notification of the favorable review in its report, proceed with publication of the report in such quantity as will permit availability to interested citizens, the media and all municipal governments within the study area. If the report contemplates further action, copies shall be certified to the appropriate board or boards of elections; (2) if the review by the Commission on Area Government is not favorable, no further action shall be taken by the inquiry commission, unless within two years following such notification, the electors or the governing bodies of the municipalities, that are determined by the Commission on Area Government as desirable parts of proposed service area, elect to join the inquiry commission. Such election shall be in the same manner as provided in Section 3, provided that either action by electors or governing bodies, or a combination thereof shall have the effect of including the municipality or municipalities. No further action shall be taken by the inquiry commission pending inclusion of such municipalities in the study area.

Section 16. The inquiry commission may report and recommend:

1. a referendum be held on the question of adoption of one of the forms of area government authorized by this act, empowered to perform one or more, or all, of the functions authorized for area government by this act, subject to such modifications as the inquiry commission has established in its report.

2. no further action, in that area government is not found suitable for the area and no significant advantage to the area would come about by creating an area government.

Section 17. If a question is to be submitted to the voters for adoption of an area government, it shall be submitted in substantially the following form:

"Shall an area government be established for the _____ area to perform the function(s) of _____, governed by a _____ plan and subject to the restrictions and stipulations contained in the inquiry commission's report?"

Yes

No

Section 18. Initiation of area government by the Commission on Area Government.

There is hereby created a Commission on Area Government, consisting of five members: the chairman of the Senate Committee on Local Government, the chairman of the House Committee on Local Government, and three public members appointed by the Governor with the consent of the Senate. The three members appointed by the Governor shall not hold any public office while serving as members of the commission and shall serve a term of four years. The members shall not receive a salary, but shall receive a per diem allowance of \$150 per day and expenses for their services on official commission business. The Secretary of Community Affairs shall serve as secretary to the commission, but shall have no vote. The Department of Community Affairs shall provide such staff services to the commission as can be made available by the Secretary. In addition, the commission may employ such staff and consultants as it deem desirable. The sum of \$300,000 shall be initially appropriated to

begin the commission's work. The commission may utilize the resources of state aided and a state related colleges and universities and may accept grants and services from any source to further its work.

Section 19. The commission shall have the following powers and duties:

1. to prepare guidelines for the purpose of assisting local inquiry commissions.

2. to review and approve studies submitted by locally initiated area government inquiry commissions. Such review and approval shall be limited to those items in Section 13 of this act.

3. to make general and specific studies of possible area government applications within the Commonwealth. Studies may be initiated by the commission, by the General Assembly or may be in response to suggestions made by public and private groups to the commission.

4. to propose area government for particular areas of the Commonwealth, subject to the restrictions and standards set forth in Section 2(1), further provided, however, that area government proposed by the Commission on Area Government shall be empowered to perform only those specific functions contained in the proposal.

The commission shall, if it proposes area government, do so in a report to the General Assembly. Such report shall provide a description of the area, naming the municipalities involved, propose the specific functions to be performed, select a form of government from the options listed elsewhere in this act and provide a method of financing area government operations not inconsistent with this act.

Not more than one area government shall be included in each report; however, the commission may submit more than one area government proposal to the General Assembly at one time.

To be considered by the General Assembly, the report shall be submitted prior to February 1 of any year.

The General Assembly shall have 120 calendar days in which to consider the proposal. If the proposal is not rejected by both houses of the General Assembly within the 120 days, the proposal shall become effective and shall become operative on the dates and according to the schedule proposed in the report.

Such proposal shall not be subject to referendum in the area affected, nor shall the functions the area government is to perform be modified or changed without the consent of the Commission on Area Government.

ORGANIZATION OF AREA GOVERNMENT

Section 20. Each area government shall be governed by one of the following plans:

Plan A - Executive-Council

Plan B - Council-Manager

Plan C - Chairman-Council

The plan applicable to a particular area government shall be recommended by the inquiry commission as part of their report. If area government is initiated by the commission on area government, the form of government for the area shall be proposed in its report to the General Assembly.

THE EXECUTIVE-COUNCIL PLAN

Section 21. Plan A - Executive Council.

a) Each area government under this plan shall be governed by an elected council and an elected executive. The executive and council shall be elected by the voters of the area at a regular municipal election and shall serve a term of four years, beginning on the first Monday of January next following their election;

b) The council shall consist of seven or more members, as proposed by the inquiry commission of the Commission on Area Government. They shall be elected on an at large or district basis or combination thereof, as recommended by the inquiry commission of the Commission on Area Government, which may propose that half the initial council be elected for two year terms and the remainder for four year terms.

c) The salaries and compensation of the executive and council shall be proposed by the inquiry commission or the Commission on Area Government. Such salaries and compensation may be revised by action of council, but shall not be increased during a term of office.

d) Vacancies in the office of executive or council shall be filled by council by majority vote of remaining members.

Section 22. The legislative powers of the area government shall be exercised by council. Council shall organize on the first Monday of January following the regular municipal election and elect a president of council from among its own members. Council may appoint such clerks and other officers to keep minutes and records of its proceedings.

Section 23. The executive powers of the area government shall be exercised by the executive. He shall enforce ordinances of the area government and general laws applicable thereto. Annually, he shall report to the council and the public on the work of the previous year. He shall make recommendations to council, from time to time, as he deems in the public interest. He shall supervise all departments of area government.

Section 24. Ordinances shall be adopted by council in the manner provided by general law.

Section 25. The area government treasurer shall be appointed by the executive. The treasurer shall collect or receive such taxes, assessments and other funds due the area government.

Section 26. The executive shall appoint heads of such departments as shall be created by council. The council shall give its consent to such appointees, who shall serve at the pleasure of the executive.

Section 27. The budget shall be prepared by the executive and adopted by council.

Section 28. The council shall provide for annual post-audits by certified public accountants appointed by council.

PLAN B - COUNCIL-MANAGER

Section 29. Plan B - Council-Manager.

a) Each area government under this plan shall be governed by an elected

council and an appointed area government manager. The council shall be elected by the voters of the area at a regular municipal election and shall serve a term of four years, beginning the first Monday of January next following their election.

b) The council shall consist of seven or more members, as proposed by the inquiry commission or the commission on area government. They shall be elected on an at large, or district basis, or combination thereof, as recommended by the inquiry commission or the Commission on Area Government, which may propose that half the initial council be elected for two year terms, and the remainder for four year terms.

c) The salaries and compensation of the manager and council shall be proposed by the inquiry commission or the Commission on Area Government. Salaries and compensation for council may be revised by action of council, but shall not be increased during their term of office.

d) Vacancies in council shall be filled by council by majority vote of remaining members.

Section 30. The legislative powers of the area government shall be exercised by council. Council shall organize on the first Monday of January following the regular municipal election and elect a president of council from among its own members. Council may appoint such clerks and other officers to keep minutes and records of its proceedings.

Section 31. The area government manager shall be appointed by council and shall serve at its pleasure. The executive powers of the area government

shall be exercised by the manager. He shall enforce ordinances of the area government and general laws applicable thereto. Annually, he shall report to the council and the public on the work of the previous year. He shall make recommendations to council, from time to time, as he deems in the public interest. He shall supervise all departments of area government.

Section 32. Ordinances shall be adopted by council in the manner provided by general law.

Section 33. The area government treasurer shall be appointed by the council. The treasurer shall collect or receive such taxes, assessments and other funds due the area government.

Section 34. The manager shall appoint heads of such departments as shall be created by council. The council shall give its consent to such appointees, who shall serve at the pleasure of the manager.

Section 35. The budget shall be prepared by the manager and adopted by council.

Section 36. The council shall provide for annual post-audits by certified public accountants appointed by council.

PLAN C - CHAIRMAN-COUNCIL

Section 37. Plan C - Chairman-Council.

a) Each area government under this plan shall be governed by an elected council. The council shall be elected by the voters of the area at a regular

municipal election and shall serve a term of four years, beginning on the first Monday of January next following his election.

b) The council shall consist of seven or fifteen members, as proposed by the inquiry commission or the Commission on Area Government. They shall be elected on an at large or district basis or combination thereof, as recommended by the inquiry commission or the commission on Area Government, which may propose that half of the initial council be elected for two year terms and the remainder for four year terms.

c) The salaries and compensations of the chairman and council shall be proposed by the inquiry commission or the Commission on Area Government. Such salaries and compensation may be revised by action of council, but shall not be increased during a term of office.

d) Vacancies in the council shall be filled by council by majority vote of remaining members.

Section 38. The legislative powers of the area government shall be exercised by council. Council shall organize on the first Monday of January following the regular municipal election and elect a president of council from among its own members. Council may appoint such clerks and other officers to keep minutes and records of its proceedings.

Section 39. The executive powers of the area government shall be exercised by the chairman, who shall be named by council for a four year term from their own membership. He shall enforce ordinances of the area government and general laws applicable thereto. Annually, he shall report to the council and the public on the work of the previous year. He shall make recommendations

to council, from time to time as he deems in the public interest. He shall supervise all departments of area government.

Section 40. Ordinances shall be adopted by council in the manner provided by general law.

Section 41. The area government treasurer shall be appointed by the chairman. The treasurer shall collect or receive such taxes, assessments and other funds due the area government.

Section 42. The chairman shall appoint heads of such departments as shall be created by council. The council shall give its consent to such appointees, who shall serve at the pleasure of the chairman.

Section 43. The budget shall be prepared by the chairman and adopted by council.

Section 44. The council shall provide for annual post-audits by certified public accounts appointed by council.

POWERS OF AREA GOVERNMENTS

Section 45. An area government shall have the power to perform any one or more of the following functions when authorized in the manner provided in this act:

1. sewage disposal
2. water supply and distribution
3. transportation systems
4. refuse disposal
5. parks, recreation and conservation
6. planning
7. police protection
8. public health services

Section 46. In addition to the powers specifically granted by this act, an area government shall have all powers which are necessary and proper to carry out the purposes of the area government and to perform authorized area government functions. An area government may contract with the United States or any agency thereof, any state or agency thereof, any other area government, any county, city, borough, town or township, school district, municipal authority, or governmental agency for the operation by such entity of any facility or the performance of any service which the area government may be authorized to operate or perform, on such terms as may be agreed upon by the contracting parties. It may sue and be sued.

Section 47. All functions of local government which are not authorized as provided in this act to be performed by an area government shall continue to be performed by the municipalities and municipality authorities within the area government as provided by law.

Section 48. An area government may be authorized to perform one or more functions in addition to those which it has been previously authorized to perform in the manner provided by Section 5, Article 9 of the Constitution of Pennsylvania:

1. By initiative and referendum in the municipality or municipalities affected, either inside or outside the area government.
2. By transfer of the function by the governing body of the municipality or municipalities affected, inside or outside the area government.

Section 49. If an area government shall be authorized to perform the

function of sewage disposal, it shall have the following powers in addition to the general powers granted by this act:

1. To prepare a comprehensive sewage disposal and storm water drainage plan for the area.

2. To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to improve, replace, repair, maintain, operate and regulate the use of facilities for sewage disposal and storm water drainage within the area, including trunk, interceptor and outfall sewers, whether used to carry sanitary waste, storm water, or combined storm and sanitary sewage, lift and pumping stations, sewage treatment plants, together with all lands, properties, equipment and accessories necessary for such facilities. Sewer facilities which are owned by a municipality or municipal authority may be acquired or used by the area government. Municipalities and municipal authorities are hereby authorized to convey or lease such facilities to area government or to contract for their joint use on such terms as may be fixed by agreement between the legislative body of such municipality or municipal authority and the area government.

3. To require municipalities and municipal authorities to discharge sewage collected by such entities from any portion of the area into such area facilities as may be provided to serve such areas when the area government shall declare by resolution that the health, safety, or welfare of the people within the area requires such action.

4. To fix rates and charges for the use of sewage disposal and storm water drainage facilities.

5. To establish minimum standards for the construction of local sewer facilities and to approve plans for construction of such facilities by component municipalities or municipal authorities wholly or partly within the area. No such municipality shall construct such facilities without first securing such approval.

6) To acquire by purchase, condemnation, gift or grant, to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local collection of sewage or storm water in portions of the area not contained within any municipal sewer systems, and to exercise such powers within such area and for such purpose to have all the powers conferred by law upon municipalities and municipal authorities with respect to such local collection facilities. All costs of such local collection facilities shall be paid for by the area served thereby.

Section 50. If an area government shall be authorized to perform the function of sewage disposal, the area government council may, prior to the effective date of the assumption of such function, cause a sewer advisory committee to be formed by notifying the legislative body of each component municipality which operates or is served by a sewer system to appoint one person to serve on such advisory committee. The area government sewer advisory committee shall meet at the time and place provided in the notice and elect a chairman. The members of such committee shall serve at the pleasure of the appointing bodies and shall receive no compensation other than reimbursement for expenses actually incurred in the performance of their duties. The function of such advisory committee shall be to advise the

area government council in matters relating to the performance of the sewage disposal function.

Section 51. If an area government shall be authorized to perform the function of water supply, it shall have the following powers in addition to the general powers granted by this act:

1. To prepare a comprehensive plan for the development of sources of water supply, trunk supply mains and water treatment and storage facilities for the area.
2. To acquire by purchase, condemnation, gift or grant, to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for water supply within or without the area, including buildings, structures, water sheds, wells, springs, dams, settling basins, intakes, treatment plants, trunk supply mains and pumping stations, together with all lands, property, equipment and accessories necessary to enable the area government to obtain and develop sources of water supply, treat and store water and deliver water through trunk supply mains. Water supply facilities which are owned by a municipality or municipal authority may be acquired or used by the area government. Municipalities and municipal authorities are hereby authorized to convey or lease such facilities to area governments or to contract for their joint use on such terms as may be fixed by agreement between the legislative body of such municipality or municipal authority and the area government.
3. To fix rates and charges for water supplied by the area government.
4. To acquire by purchase, condemnation, gift or grant, and to lease,

construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local distribution of water in portions of the area not contained within any municipal water system and to exercise such powers within such area and for such purpose to have all the powers conferred by law upon such municipalities and municipal authorities with respect to such local distribution facilities. All costs of such local distribution facilities shall be paid for by the area served thereby.

Section 52. If an area government shall be authorized to perform the function of water supply, the area government council may, prior to the effective date of the assumption of such function, cause a water advisory committee to be formed by notifying the legislative body of each component municipality which operates or is serviced by a water system to appoint one person to serve on such advisory committee. The area government water advisory committee shall meet at the time and place provided in the notice and elect a chairman. The members of such committee shall serve at the pleasure of the appointing bodies and shall receive no compensation other than reimbursement for expenses actually incurred in the performance of their duties. The function of such advisory committee shall be to advise the area government council with respect to matters relating to the performance of the water supply function.

Section 53. If an area government shall be authorized to perform the function of transportation, it shall have the following powers in addition to the general powers granted by this act:

1. to prepare and develop a comprehensive plan for public transportation service which will best serve the residents of the area.

2. To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of transportation facilities within the area, including systems of air surface, underground or overhead railways, busses, monorails, or any other means of local transportation except taxis, and including passenger terminal and parking facilities, together with all lands, rights of way, property, equipment and accessories necessary for such systems and facilities. Public transportation facilities which are owned by any municipality or municipal authority may be acquired or used by the area government. Municipalities and municipal authorities are hereby authorized to convey or lease such facilities to the area government or to contract for their joint use on such terms as may be fixed by agreement between the municipality or municipal authorities and the area government.

3. To fix rates and charges for the use of such facilities.

Section 54. Except in accordance with an agreement made as provided herein, upon the effective date on which the area government commences to perform the transportation function, no person or private corporation shall operate a local public passenger transportation service within the area with the exception of taxis, buses owned or operated by a school district or private school, and buses owned or operated by any corporation or organization solely for the purposes of the corporation or organization and for the use of which no fee or fare is charged.

An agreement may be entered into between the area government and any person or corporation legally operating a local public passenger transportation service wholly within or partly within and partly without the area and on said effective date under which such person or corporation may continue to operate such service or any part thereof for such time and upon such terms and conditions as provided in such agreement. Where any such local public passenger transportation service will be required to cease to operate within the area, the commission may agree with the owner of such service to purchase the assets used in providing such service, or if no agreement can be reached, the area government shall condemn such assets in the manner provided herein for the condemnation of other properties.

Wherever a privately owned public carrier operates wholly or partly within a municipality, the Public Utility Commission shall continue to exercise jurisdiction over such operation as provided by law.

Section 55. If an area government shall be authorized to perform the transportation function, it shall, upon the effective date of the assumption of such power, have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of passenger transportation which any component municipality shall have been previously empowered to exercise and such powers shall not thereafter be exercised by such component municipality without the consent of the area government.

PROVIDED, That any municipality owning and operating a public transportation system on such effective date may continue to operate such system within such

municipality until such system shall have been acquired by the area government.

Section 56. If an area government shall be authorized to perform the function of transportation, it shall have authority, including but not limited to the power to construct, acquire, maintain, operate, extend, alter, repair, control and manage local public transportation system within the area, to establish a new passenger transportation service which the area government may deem desirable, to fix tolls and fares, so that the revenue of the system shall be sufficient to meet the cost of construction or acquisition of new facilities and depreciation of facilities.

Bonds of the area government for public transportation purposes shall be issued by the area government as provided in this act.

Section 57. If an area government shall be authorized to perform the function of refuse disposal, it shall have the following powers in addition to the general powers granted by this act:

1. To prepare a comprehensive refuse disposal plan for the area.
2. To acquire by purchase, gift, or grant, and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for refuse disposal within the area, including refuse disposal sites, central collection station sites, structures, machinery and equipment for the operation of central collection stations and for the hauling and disposal of refuse by any means, together with all lands, property, equipment and accessories necessary for such facilities. Refuse disposal facilities

which are owned by a municipality may be acquired or used by the area government. Municipalities are hereby authorized to convey or lease such facilities to area governments or to contract for their joint use on such terms as may be fixed by agreement between the municipality and the area government.

3. To fix rates and charges for the use of refuse disposal facilities.

4. With the consent of any component municipality, to acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local collection of refuse within such municipality, and for such purpose to have all the powers conferred by law upon such municipality with respect to such local collection facilities. Nothing herein contained shall be deemed to authorize the local collection of refuse except in component municipalities. All costs of such local collection facilities shall be paid for by the area served thereby.

Section 58. If an area government shall be authorized to perform the function of parks, recreation and conservation, it shall have the following powers in addition to the general powers granted by this act:

1. To prepare a comprehensive plan for area parks and recreation and conservation.

2. To acquire by purchase, condemnation, gift or grant, to lease, construct, add to, improve, develop, replace, repair, maintain, operate and regulate the use of parks and recreational areas and open space, together with all lands, rights of way, property, equipment and accessories necessary therefor.

A park, recreation area or open space shall be considered to be an area facility if the area government shall by resolution find it to be of use and benefit to all or a major portion of the residents of the area.

Parks, recreational facilities or open space which are owned by a component municipality or school district may be acquired or used by the area government. Municipalities and school districts are hereby authorized to convey or lease such facilities to the area government or to contract for their joint use on such terms as may be fixed by agreement between the municipalities and the area government, without submitting the matter to the voters of such area. If parks, recreational areas or open space, which have been acquired or used as area government facilities shall no longer be used for these purposes by the area government, such facilities shall revert to the component municipality or school district which formerly owned them.

3. To fix fees and charges for the use of parks, and recreational area facilities.

Section 59. If an area government shall be authorized to perform the functions of parks, recreation and conservation, it shall have authority to authorize expenditures for park, recreation and open space purposes within the budget adopted by the area government. Bonds of the area government for park, recreation and open space purposes shall be issued by the area government as provided in this act.

Section 60. If an area government shall be authorized to perform the function of comprehensive planning, it shall have the following powers in

Police facilities which are owned by a municipality may be acquired or used by the area government. Municipalities are hereby authorized to convey or lease such facilities to area government or contract for this joint use on such terms as may be provided by agreement between the legislative body of such municipality and the area government.

3. To require municipalities to cooperate with such police facilities as may be provided by the area government to serve such areas when the area government shall declare by resolution that the safety of the people within the area requires such action.

4. To provide police protection for any portion of the area not served by municipal police, and to exercise such powers within such area and for such purpose to have all the powers referred by law upon municipalities with respect to local police protection.

Section 62. If an area government shall be authorized to perform the function of public health services, it shall have the following powers in addition to the general powers granted in this act:

1. To prepare a comprehensive public health service plan for the area.

2. To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for public health services within the area, together with all property, equipment and accessories for such facilities. Public health facilities which are owned by a municipality may be acquired or used by the area government. Municipalities are hereby authorized to convey or lease such facilities to area governments or to contract for the joint use

addition to the general powers granted by this act and those powers of the Municipalities Planning Code not inconsistent with this act:

1. To prepare a recommended comprehensive land use and capital facilities plan for the area.
2. To review proposed zoning ordinances, amendments to ordinances, and resolutions or comprehensive plans of component municipalities and make recommendations thereon. Such proposed zoning ordinances amendments thereto and resolutions or comprehensive plans must be submitted to the area government prior to adoption and may not be adopted until reviewed and returned by the area government. The area government shall cause such ordinances, resolutions and plans to be reviewed by the planning staff of the area government and return such ordinances, resolutions and plans, together with their findings and recommendations thereon within sixty days following their submission.
3. To provide planning services for component municipalities upon request and upon payment therefor by the municipalities receiving such service.

Section 61. If an area government shall be authorized to perform the function of police protection, it shall have the following powers in addition to the general powers granted by this act:

1. To prepare a comprehensive police protection plan for the area.
2. To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for police protection, including stations, equipment, vehicles, helicopters and other airborne equipment, communication systems, records systems, and such accessories necessary for such facilities.

on such terms as may be provided by agreement between the legislative body of such municipality and the area government.

3. To exercise public health powers within the area and for such purpose to have all the powers conferred by law upon municipalities with respect to public health powers.

Section 63. Acquisition and disposition of property. An area government shall have powers to acquire by purchase and condemnation all lands and property reights which are necessary for its purposes. Such right of eminent domain shall be exercised by the area government in the same manner as is provided by general law for all municipalities.

Section 64. An area government may sell, or otherwise dispose of any real or purchased property acquired in connection with any authorized area government function which is no longer required for the purposes of the area government.

Section 65. All powers and functions of an area government shall be vested in the area government council unless expressly vested in specific officers, boards, or commissions by this act. Without limitation of the foregoing authority, or of other powers given it by this act, the area government council shall have the following powers:

1. To establish offices, departments, boards and commissions in addition to those provided by this act which are necessary to carry out the purposes of the area government, and to prescribe the functions, powers and duties thereof.

2. To appoint or provide for the appointment of, and to remove or to provide for the removal of, all officers and employees of the area government except those whose appointment or removal is otherwise provided for by this act.

3. To fix the salaries, wages and other compensation of all officers and employees of the area government unless the same shall be otherwise fixed in this act.

4. To employ such engineering, legal, financial, or other specialized personnel as may be necessary to accomplish the purposes of the area government.

Section 66. An area government shall have power to adopt by resolution such rules and regulations as shall be necessary or proper to enable it to carry out authorized functions and may provide penalties for the violation thereof.

Section 67. The area government council shall establish and provide for the operation and maintenance of a personnel merit system for the employment, classification, promotion, demotion, suspension, transfer, layoff and discharge of its appointive officers and employees solely on the basis of merit and fitness without regard to political influence or affiliation. The person appointed or body created for the purpose of administering such personnel system shall have power to make, amend and repeal rules and regulations as are deemed necessary for such merit system. Such rules and regulations shall provide:

1. That the person to be discharged or demoted must be presented with the reasons for such discharge or demotion specifically stated; and

2. That he shall be allowed a reasonable time in which to reply thereto in writing and that he be given a hearing thereon within a reasonable time.

Section 68. An area government shall offer to employ every person who on the date such area government acquires a facility is employed in the operation of such facility by a component municipality or by a municipal authority.

Section 69. Where an area government employes a person employed immediately prior thereto by a component municipality, or by an authority, such employee shall be deemed to remain an employee of such municipality or municipal authority for the purposes of any pension plan of such municipality or municipal authority, and shall continue to be entitled to all rights and benefits thereunder as if he had remained as an employee of the municipality or municipal authority, until the area government has provided a pension plan and such employee has elected, in writing, to participate therein.

Until such election, the area government shall deduct from the remuneration of such employee the amount which such employee is or may be required to pay in accordance with the provisions of the plan of such municipality or municipal authority and the area government shall pay to the municipality or municipal authority any amounts required to be paid under the provisions of such plan by employer or employee.

FINANCE

Section 70. An area government shall have the power to issue general obligation and revenue bonds in accordance with general law applicable to all municipalities. Debt limits and other restrictions applicable to all municipalities shall be also applied to area governments.

Section 71.

(a) An area government shall have the power to levy special assessments on property within the area for special benefits by any improvement. Such assessments shall be imposed and collected in such manner as is provided by general law applicable to municipalities and municipal authorities.

(b) An area government shall have power to levy assessments for services provided to municipalities within the area government. Said assessments may be based on property valuation, on a per capita basis or on such other basis as can be reasonably determined.

Section 72. An area government shall prepare and enact a budget in the manner as is provided by general law for all municipalities. Such budget shall include a separate section for each authorized area government function.

Section 73. Taxation. An area government may levy and receive the following taxes:

1. A tax, on the same basis and on the same subjects as the Pennsylvania selective sales and use tax, now known as the Education Tax, to be collected within the area government on the same basis and in the same manner as the sales tax, at a rate not to exceed 1%.

2. A tax, on the same basis and on the same subjects as any personal income tax as may be hereafter enacted by the Pennsylvania General Assembly, to be collected with the area government on the same basis and in the same manner as the income tax, at a rate not to exceed 1%.

Section 74. Disestablishment of Area Government.

Area government may be dissolved by action of the electorate in the following manner only. A petition calling for the establishing of a dissolution commission, signed by electors in each municipality comprising five per cent of the number of voters voting for the office of Governor in the last gubernatorial general election, shall be filed with the applicable election officials. The official shall place the proposal on the ballot and shall receive, at the same time, petitions for the election of dissolutions commission members, in the same manner as provided by Section 2(5) and Section 4 of this act. The ballot proposition shall be substantially in the following form:

"Shall a dissolution commission be created to make provision for dissolving the area government and allocating its properties and facilities to municipalities in a manner the commission finds fair and equitable?"

If the question is determined in the affirmative, the commission shall organize and, with all deliberate speed, proceed to make such disposition of assets, resources and other facilities owned by the area government among the component municipalities as it deems fair and reasonable.

A question on the dissolution of the area government shall not be submitted within five years after the area government begins, nor shall the same question be submitted more often than once in five years.

Section 75. All acts and parts of acts are repealed insofar as they are inconsistent with this act.

