

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 635

Session of  
1979

INTRODUCED BY A. C. FOSTER, JR., M. H. GEORGE, WEIDNER,  
SIRIANNI, DIETZ, PUNT AND E. Z. TAYLOR, MARCH 12, 1979

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 12, 1979

AN ACT

1 Amending the act of May 1, 1933 (P.L.103, No.69), entitled "An  
2 act concerning townships of the second class; and amending,  
3 revising, consolidating, and changing the law relating  
4 thereto," adding provisions relating to conflict of interest  
5 standards of ethics involving township officers and employees.

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

8 Section 1. Subsection (f) of section 802, act of May 1, 1933  
9 (P.L.103, No.69), known as "The Second Class Township Code,"  
10 reenacted and amended July 10, 1947 (P.L.1481, No.567) and  
11 amended October 4, 1978 (P.L.1026, No.228), is amended to read:

12 Section 802. Letting Contracts.--\* \* \*

13 (f) Except as herein provided, no township official, either  
14 elected or appointed, who knows, or who by the exercise of  
15 reasonable diligence, could know, shall be interested to any  
16 appreciable degree, either directly or indirectly, in any  
17 contract for the sale or furnishing of any supplies or materials  
18 for the use of the township, or for any work to be done or  
19 services rendered for such township or in any other contract or

1 construction entered into by the township involving the  
2 expenditure by the township of more than three hundred dollars  
3 (\$300) in any year, but this limitation shall not apply to cases  
4 where such officer, or appointee of the township, is an employee  
5 of the person, firm or corporation to which the money is to be  
6 paid in a capacity with no possible influence on the  
7 transaction, and in which he cannot be possibly benefited  
8 thereby, either financially or otherwise: Provided, however,  
9 That in the case of a supervisor, if he knows that he is within  
10 the exception just mentioned, he shall so inform the supervisors  
11 and shall refrain from voting on the expenditures, or any  
12 ordinance relating thereto, and shall in no manner participate  
13 therein: Provided, further, That any such official or appointee  
14 who shall knowingly violate this provision shall be subject to  
15 surcharge to the extent of the damage shown to be thereby  
16 sustained by the township, ouster from office, and shall be  
17 guilty of a misdemeanor, and upon conviction thereof, shall be  
18 sentenced to pay a fine not exceeding [five hundred dollars  
19 (\$500)] one thousand dollars (\$1,000) or to imprisonment for not  
20 more than one year or both: Provided, That in the case of the  
21 purchase of material for the construction, reconstruction,  
22 maintenance and improvement of roads and bridges, the contract,  
23 which shall be in writing, and shall be let only on standard  
24 specifications of the Department of Transportation, and  
25 materials so purchased shall only be used in accordance with  
26 specifications of said department.

27 \* \* \*

28 Section 2. The act is amended by adding an article to read:

29 ARTICLE XX-A

30 CONFLICT OF INTEREST; ETHICAL STANDARDS

1                   FOR OFFICERS AND EMPLOYES

2       Section 2001-A. Scope.--This article shall not repeal or  
3 supersede any provision of this code or lessen any prohibition  
4 or standard of conduct required thereunder. The intent of this  
5 article is to deal with and cover situations not previously  
6 covered.

7       Section 2002-A. Definitions.--The following words, terms and  
8 phrases as used in this article, shall have the meanings herein  
9 assigned to them, unless the context clearly indicates  
10 otherwise:

11       (a) "Agency." Any department, bureau, authority,  
12 commission, board or other governmental body including the  
13 township board of supervisors within or established by a  
14 township, including a home rule township.

15       (b) "Appointed officer." (1) An individual holding office,  
16 named in this code or in any other act of the Commonwealth, to  
17 which he is named by township board of supervisors, whether that  
18 individual serves full time or part time, whether or not he  
19 receives compensation from the township for his services; and  
20 whether or not he holds a single named office or is one of  
21 several individuals serving on a board, commission or authority,  
22 (2) an individual employed by the township on a full-time or  
23 part-time basis, exercising supervisory authority over any other  
24 township employe and/or performing nonministerial action in  
25 connection with township affairs.

26       (c) "Business." (1) Corporation, partnership, sole  
27 proprietorship, firm, enterprise, franchise, association, self-  
28 employed individual, holding company, joint stock company,  
29 receivership trust or any entity organized for profit, (2) and  
30 nonprofit corporation or organization in which an individual is

1 employed or holds office.

2 (d) "Business with which he is connected." Any business in  
3 which the person or a member of the person's immediate family is  
4 a director, officer, owner, employe or holder of stock.

5 (e) "Elected officer." An individual holding an elected  
6 township office.

7 (f) "Employee." An individual employed by the township on a  
8 full-time or part-time basis and not coming within the  
9 definition of "elected officer" or "appointed officer."

10 (g) "Gift." A payment, advance, forbearance, rendering or  
11 deposit of money, services or anything of value, unless  
12 consideration of equal or greater value is received by the  
13 donor, but shall not include: (1) a political contribution  
14 otherwise reported as required by law, (2) a commercially  
15 reasonable loan made in the ordinary course of business, or (3)  
16 a gift received from a relative.

17 (h) "Immediate family." The spouse of an individual and  
18 those related by blood, adoption or marriage who are full-time  
19 residents of that individual's household.

20 (i) "Individual." A natural person.

21 (j) "Ministerial action." An action that an individual  
22 performs in a prescribed manner in obedience to the mandate of  
23 legal authority, whether by law, ordinance, regulation or the  
24 instructions of a superior, and without regard to, or the  
25 exercise of, the individual's own judgment as to the  
26 desirability of the action being taken.

27 (k) "Nonministerial action." An action that an individual  
28 performs as part of his official powers, duties, authority or  
29 functions, in which he has authority to exercise discretion or  
30 judgment as to the legality or desirability of the action being

1 taken.

2 (l) "Person." An individual, partnership, association or  
3 corporation, firm, committee, club or other organization or  
4 group of persons.

5 (m) "Relative." A member of an individual's immediate  
6 family and also that individual's father, mother, grandfather,  
7 grandmother, son, daughter or sibling, whether by blood,  
8 adoption or marriage, the latter including, for example,  
9 stepparents, stepchildren and half brothers and half sisters.

10 (n) "Valuable." Having a value of more than twenty-five  
11 dollars (\$25).

12 (o) "Value." The intrinsic worth, expressed in dollars, of  
13 anything, if that worth is known or easily obtainable; otherwise  
14 a good faith estimate of that worth.

15 Section 2003-A. Financial Gain from Township Office or  
16 Employment Prohibited.--No elected or appointed officer and no  
17 employee shall use his township office or employment in order to  
18 obtain any financial gain for himself, any relative of his or  
19 any business with which he is connected. "Financial gain" shall  
20 not apply to or include the authorized salary or other  
21 compensation paid that individual by the township and applicable  
22 to his office, position, rank or class.

23 Section 2004-A. Acceptance of Valuable Things Based upon  
24 Certain Understanding.--It shall be unlawful for any elected or  
25 appointed officer, or for any employee, or for any candidate for  
26 elected office, to solicit or accept from any other person, or  
27 to allow any of his relatives or any business with which he is  
28 connected to solicit or accept any valuable thing, including a  
29 gift, loan, political contribution or reward, based upon an  
30 understanding that the vote, official action or judgment or the

1 recipient will be influenced by that action.

2 Section 2005-A. Representation of Private Interests Before  
3 Township Agencies.--It shall be unlawful for any elected or  
4 appointed officer or for any employe to appear in behalf of  
5 another person before any agency of the township, or to  
6 represent any person in any action or proceeding against the  
7 interests of the township in any litigation to which the  
8 township is a party. No former elected officer, appointed  
9 officer or employe shall represent another person before any  
10 agency of the township for one year after he leaves that body.

11 Section 2006-A. Disclosure or Use of Confidential  
12 Information.--It shall be unlawful for any elected or appointed  
13 officer or for any employe, without proper authorization, to  
14 disclose confidential information concerning the property,  
15 government or affairs of the township. Nor shall any such  
16 officer or employe use that information to advance the  
17 financial, personal or private interest of himself or any other  
18 person.

19 Section 2007-A. Restrictions on Incompatible Employment or  
20 Service.--It shall be unlawful for any elected or appointed  
21 officer or for any employe to engage in or accept employment or  
22 to render services for any public or private agency or entity  
23 when that employment or service would conflict with the proper  
24 and impartial discharge of his official or designated or  
25 assigned duties for the township, or would tend to impair his  
26 independence of judgment or action in the performance of those  
27 township duties.

28 Section 2008-A. Partiality and Favoritism Unlawful.--In the  
29 conduct of his official duties, or in the exercise of his  
30 authority under the township government, no elected or appointed

1 officer, and no employe, shall grant any special favor or  
2 consideration to any person or individual beyond that which is  
3 available to every other person or individual, other than  
4 through the exercise of specific legislative, administrative or  
5 judicial authority vested in his office or position  
6 individually, or as a member of an executive, legislative,  
7 judicial or administrative agency of the township.

8 Section 2009-A. Restrictions on Use of Public Property.--It  
9 shall be unlawful for any elected or appointed officer or for  
10 any employe to use or to request or permit the use of any  
11 vehicle, equipment, material or property owned or under the  
12 control of the township for the convenience or profit to himself  
13 or any relative or business associate, except under conditions  
14 when that use is available to the public generally or is  
15 provided as township policy.

16 Section 2010-A. Penalty for Violation.--Any person who  
17 violates sections 2005-A, 2006-A, 2007-A, 2008-A and 2009-A  
18 shall be guilty of a misdemeanor and, upon conviction, shall be  
19 sentenced to pay a fine of not more than one thousand dollars  
20 (\$1,000) or to imprisonment for not more than one year or both.  
21 Any person who violates sections 2003-A and 2004-A of this  
22 article shall be guilty of a felony and upon conviction shall be  
23 sentenced to pay a fine of not more than ten thousand dollars  
24 (\$10,000) or imprisoned for not more than five years or both. If  
25 that person is an elected or appointed officer, he shall be  
26 subject to surcharge to the extent of the damage shown to be  
27 sustained by the township from his unlawful act, and also to  
28 removal from his office or position.

29 Section 2011-A. Referendum.--(a) Upon petition to the  
30 county board of elections of at least ten percent of the

1 electors of the township, a question shall be placed on the  
2 ballot at any municipal election to determine the will of the  
3 electors thereof with respect to the application of the act of  
4 October 4, 1978 (P.L.883, No.170), referred to as the Public  
5 Official and Employee Ethics Law, in the township. Petitions  
6 shall be submitted to the county board of elections and shall be  
7 governed, to the extent consistent with this section, by the  
8 deadlines and procedures required for submission of nomination  
9 petitions by candidates seeking elective municipal office:  
10 Provided, however, That said petitions shall be submitted prior  
11 to the municipal election rather than the primary. Said petition  
12 shall be submitted, the referendum thereon conducted and the  
13 results thereon certified in the manner provided by the election  
14 laws of this Commonwealth.

15 (b) The question shall be in the following form:

16	<u>Do you favor the application of the</u>	<u>Yes</u>
17	<u>State Public Official and Employee Ethics</u>	
18	<u>Law to the</u>	<u>Township?</u>
		<u>No</u>

19 (c) If a majority of the electors voting on the question  
20 vote "yes," then the act of October 4, 1978 (P.L.883, No.170),  
21 referred to as the Public Official and Employee Ethics Law shall  
22 apply to the township and the other provisions of this article  
23 shall not apply.

24 (d) Until there is an affirmative vote under subsection (c)  
25 on the question presented in subsection (b), the act of October  
26 4, 1978 (P.L.883, No.170), referred to as the Public Official  
27 and Employee Ethics Law shall not apply to township officials,  
28 township employes, candidates for township office and their  
29 immediate families and businesses with which they are connected.

30 Section 2012-A. Township Code of Ethics.--(a) A township



1 may adopt by ordinance a code of ethics for township officers  
2 and employes. The code may contain provisions relating to  
3 ethical standards, including conflict of interest and disclosure  
4 requirements and shall be no less restrictive than this article.  
5 Any code of ethics adopted pursuant to this section may be more  
6 restrictive than the act of October 4, 1978 (P.L.883, No.170),  
7 referred to as the Public Official and Employee Ethics Law.

8 (b) A Township Code of Ethics shall supersede any other  
9 similar provisions of this article.

10 Section 3. This act shall take effect immediately.