

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1295

Session of
1985

INTRODUCED BY FRYER, FOSTER, SHOWERS, DUFFY, YANDRISEVITS,
DeLUCA, SCHEETZ, NAHILL, BELFANTI, JAROLIN, DISTLER,
D. W. SNYDER, WOZNIAK, BALDWIN, TELEK, RAYMOND AND BARLEY,
MAY 29, 1985

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 22, 1985

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," further providing for the compensation of
5 supervisors and the purchase of insurance.

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

8 Section 1. Section 515 of the act of May 1, 1933 (P.L.103,
9 No.69), known as The Second Class Township Code, reenacted and
10 amended July 10, 1947 (P.L.1481, No.567) and amended November 2,
11 1973 (P.L.324, No.105), is amended to read:

12 Section 515. Compensation of Supervisors.--[Supervisors may
13 receive from the general township fund, as compensation, twenty-
14 five dollars for each meeting which they attend. The
15 compensation of supervisors, when acting as superintendents,
16 roadmasters or laborers, shall be fixed by the township auditors
17 either per hour, per day, per week, semi-monthly or monthly,
18 which compensation shall not exceed compensation paid in the

1 locality for similar services, and such other reasonable
2 compensation for the use of a passenger car, or a two-axled
3 four-wheeled motor truck having a chassis weight of less than
4 two thousand pounds and a maximum gross weight of five thousand
5 pounds, or a class 2 truck, having a maximum gross weight of
6 seven thousand pounds when required and actually used for the
7 transportation of road and bridge laborers and their hand tools
8 and for the distribution of cinders and patching material from a
9 stock pile, as the auditors shall determine and approve; but no
10 supervisor shall receive compensation as a superintendent or
11 roadmaster for any day he receives compensation for attending a
12 meeting of supervisors, unless such meeting is held after
13 regular working hours.] (a) Supervisors may receive from the
14 general township fund compensation at the rate of twenty-five
15 dollars per meeting for each advertised general or special
16 meeting of the board of supervisors that they attend; but no
17 supervisor shall receive compensation as a superintendent or
18 roadmaster for any day he receives compensation for attending a
19 meeting of supervisors, unless such meeting is held after
20 regular working hours.

21 (b) The compensation of supervisors employed by the township
22 as superintendent, roadmaster, laborer, secretary, treasurer or
23 secretary/treasurer shall be fixed by the township auditors and
24 shall not exceed compensation paid in the locality for similar
25 services.

26 (c) A supervisor may contract with the township for use by
27 the township of a vehicle and/or equipment owned by such
28 supervisor. The compensation to be paid to the supervisor by the
29 township for such use shall be fixed by the township auditor.

30 (d) Any benefit provided to or for the benefit of a

1 supervisor employed by the township as a superintendent,
2 roadmaster, laborer, secretary, treasurer or secretary/treasurer
3 in the form of inclusion in a pension or annuity plan paid for
4 in whole or in part by the township shall be deemed to be
5 compensation within the meaning of this act to the extent such
6 benefit is paid for by the township and shall require the
7 approval of the township auditors; however, supervisors shall be
8 eligible for inclusion in such township pension or annuity plans
9 only if they are employed by the township on a full-time basis
10 in their capacity as superintendent, roadmaster, laborer,
11 secretary, treasurer or secretary/treasurer. Supervisors
12 eligible for inclusion in such plans must meet the same
13 requirements, including hours of employment, as other full-time
14 employees of the township who are eligible to participate in a
15 pension or annuity plan. Such plans shall not give eligibility
16 preference to, or improperly discriminate in favor of,
17 supervisor-employees. On or before ~~December 31, 1985~~ THE <—
18 EXPIRATION OF SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS
19 SUBSECTION, the township auditors may ratify payments made
20 without auditor approval between January 1, 1959, and the
21 effective date of this act, to a pension or annuity plan, for or
22 on behalf of such supervisor-employees OR RETIRED SUPERVISOR- <—
23 EMPLOYES. If the auditors fail, neglect or refuse to ratify such
24 payments by said date, then anyone entitled to benefit coverage
25 under a pension plan paid for in whole or in part by any
26 township without lawful authority because of the lack of
27 approval by the township auditors shall deliver, surrender and
28 assign to the township all benefits paid thereunder after
29 December 31, 1984, and the provisions of subclause (E)(3) of
30 clause XIII of section 702 shall be applicable.

1 (e) Auditor approval for inclusion of a supervisor-employee
2 shall not be rescinded, once given, in any subsequent years as
3 long as the pension or annuity plan remains in effect and said
4 supervisor remains employed by the township on a full-time basis
5 as superintendent, roadmaster, laborer, secretary, treasurer or
6 secretary/treasurer; nor shall the auditors be empowered to take
7 or refrain from any action that would cause the disqualification
8 of all or any portion of the pension or annuity plan under the
9 applicable Federal law. However, no change in the nature or
10 amount of the contributions shall be initiated by the board of
11 supervisors with respect to a supervisor-employee without auditor
12 approval.

13 (f) Supervisors shall be eligible for inclusion in group
14 life, health, hospitalization, medical service and accident
15 insurance plans paid for in whole or in part by the township
16 only if they are employed on a full-time basis in their capacity
17 as a superintendent, roadmaster, laborer, secretary, treasurer
18 or secretary/treasurer. Supervisors eligible for inclusion in
19 such plans must meet the same requirements, including hours of
20 employment, as other full-time employees of the township who are
21 eligible for inclusion in such plans, and their inclusion shall
22 not require auditor approval. Other supervisors shall be
23 eligible for inclusion in such plans only if they pay their pro
24 rata share of the premiums, and their inclusion shall not
25 require auditor approval. Such insurance shall be uniformly
26 applicable to those covered and shall not give eligibility
27 preference to, or improperly discriminate in favor of,
28 supervisors.

29 Section 2. Clause XIII of section 702 of the act, amended
30 June 26, 1975 (P.L.34, No.17), is amended to read:

1 Section 702. Supervisors to Exercise Powers.--The corporate
2 powers of townships of the second class shall be exercised by
3 the township supervisors. Where no specific authority is given
4 for the expenditures incident to the exercise of any power
5 hereinafter conferred, or where no specific fund is designated
6 from which such expenditures shall be made, appropriations for
7 such expenditures shall be made only from the general township
8 fund. In addition to the duties imposed upon them by section 516
9 hereof, they shall have power--

10 * * *

11 XIII. Insurance.--(A) To expend out of the general township
12 fund such amount as may be necessary to secure workmen's
13 compensation insurance for its employes, including volunteer
14 firemen of companies duly recognized by the township by motion
15 or resolution, killed or injured while going to, returning from,
16 or attending fires in said township or territory adjacent
17 thereto, or while performing any other duties authorized by the
18 township[; to].

19 (B) To make contracts of insurance with any fire insurance
20 company, duly authorized by law to transact business in the
21 Commonwealth of Pennsylvania, on any building or property owned
22 by such township[, to].

23 (C) To make contracts with any insurance company, so
24 authorized, insuring any public liability of the township,
25 including insurance on every township officer, official, and
26 employe for liability arising from errors and omissions in the
27 performance of their duties in the course of their employment,
28 except that liability of elected or appointed officials or
29 officers for surcharge in accordance with law shall not be
30 affected hereby[; and to].

1 (D) (1) To make contracts of insurance with any insurance
2 company, or nonprofit hospitalization corporation, or nonprofit
3 medical service corporation, authorized to transact business
4 within the Commonwealth, insuring its township supervisors
5 and/or their dependents, if the supervisor works on a full-time
6 basis in his capacity as superintendent, roadmaster, laborer,
7 secretary, treasurer or secretary/treasurer for the township,
8 and insuring its employes, and/or their dependents, or any class
9 or classes thereof, under a policy or policies of group
10 insurance covering life, health, hospitalization, medical
11 service, or accident insurance[, and may contract with any such
12 company, granting annuities or pensions, for the pensioning of
13 such employes, and for such purposes, may agree to pay part or
14 all of the premiums or charges for carrying such contracts, and
15 may appropriate out of its treasury any money necessary to pay
16 such premiums, or charges, or portions thereof. The supervisors
17 are hereby authorized, enabled and permitted to deduct from the
18 employe's pay, salary or compensation such part of the premium,
19 or charge, as is payable by the employe, and as may be so
20 authorized by the employe in writing]. Supervisors eligible for
21 inclusion in such plans must meet the same requirements,
22 including hours of employment, as other full-time employes of
23 the township who are eligible for inclusion in such plans. In no
24 case shall the benefit coverage provided to supervisor-employes
25 exceed those provided to other full-time employes. The
26 ADDITIONALLY, supervisors are hereby authorized to purchase
27 insurance at the township's expense to cover any township
28 official or employe for any illness or injury incurred within
29 the scope, and as a direct and proximate result, of his official
30 duties or employment. As used in this subclause (D)(1),

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"employees" excludes independent contractors and all township engineers and solicitors.

(2) Any life, health, hospitalization, medical service or accident insurance coverage contract entered into by a township between January 1, 1959, and December 31, 1984, that includes or provides coverage for supervisors shall not be void or unlawful solely because such inclusion of supervisors was not previously approved by the township auditors, nor shall any penalty, assessment, surcharge or disciplinary action of any kind occur as a result of such participation by such supervisors; and insurance benefits payable to insureds or their beneficiaries arising out of or on account of deaths, injuries, accidents or illnesses occurring prior to the effective date of this amendatory act shall remain the property of the insureds or their beneficiaries.

(E) (1) To contract with any such company or otherwise provide for the granting of annuities or pensions, for the pensioning of employees, and for such purposes, to pay part or all of the premiums or charges for carrying such contracts, and to appropriate out of its treasury any money necessary to pay such premiums, charges or costs or portions thereof. In no case, however, shall the benefit coverage provided to supervisor-employees be unfairly disproportionate to that provided to other employees of the township. The supervisors are hereby authorized, enabled and permitted to deduct from the employee's pay, salary or compensation such part of the premium or charge as is payable by the employee, and as may be so authorized by the employee in writing. As used in this subclause (E)(1), the term "employees" excludes independent contractors and all township engineers and solicitors.

1 (2) Any pension or annuity contract entered into by a
2 township between January 1, 1959, and December 31, 1984, that
3 includes or provides for benefits for supervisor-employees at
4 township expense shall not be void or unlawful solely because
5 such inclusion of supervisor-employees was not previously
6 approved by the township auditors; nor shall any penalty,
7 assessment, surcharge or disciplinary action of any kind occur
8 as a result of such participation by supervisor-employees:
9 Provided, however, That anyone entitled to benefit coverage
10 under a pension paid for in whole or in part by any township
11 without lawful authority, other than solely the lack of approval
12 by the township auditors, shall deliver, surrender and assign to
13 the township all benefits paid thereunder after December 31,
14 1984.

15 (3) Where any official personally contributed toward such a
16 pension plan or a purchase of such an annuity, he shall be
17 refunded his total contributions thereto, plus any interest
18 accumulated thereon, less any amount already paid to him under
19 the annuity or pension plan, when the annuity or pension
20 benefits are delivered, surrendered or assigned to the township,
21 or when the annuity becomes the property of the township by
22 operation of this section. In lieu of a refund of total
23 contributions plus accumulated interest, an official who
24 personally contributed toward the pension plan or toward the
25 purchase of the annuity may elect to purchase from the township
26 its interest in that pension plan or annuity program. The
27 election option shall be exercised within sixty days of the
28 effective date of this act. The value of the interest of the
29 township in the pension plan or annuity program with respect to
30 the official shall be determined by the actuary who prepared the

1 1983 municipal pension report for the township pension plan or
2 annuity program pursuant to the act December 6, 1972 (P.L.1383,
3 No.293), entitled "An act requiring municipal pension systems
4 to have an actuarial investigation of the fund made by an
5 actuary who shall report his findings to the Department of
6 Community Affairs," using the same applicable actuarial
7 assumptions as used in that report or, if no actuary was
8 retained for the 1983 report or no 1983 report was filed, by an
9 actuary retained for the purpose of valuing the township
10 interest. The cost of the actuarial valuation of the township
11 interest and any future administrative costs of the pension plan
12 or the annuity program attributable to the official shall be
13 payable by the official in a manner to be established by
14 agreement with the township auditors.

15 (4) No elected or appointed township official included in a
16 township-paid pension or annuity plan entered into prior to
17 December 31, 1984, shall be subject to any penalty, assessment,
18 surcharge or disciplinary action of any kind as a result of said
19 participation. Any residual interest, value, refund of premium
20 or benefits payable on or after December 31, 1984, arising out
21 of the township-paid interest of the elected or appointed
22 township officials shall become the exclusive property of the
23 township.

24 * * *

25 Section 3. This act shall take effect immediately.