

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 80

Session of  
1993

INTRODUCED BY CAPPABIANCA, PESCI, GEIST, MERRY, PRESTON AND  
BEBKO-JONES, JANUARY 27, 1993

REFERRED TO COMMITTEE ON RULES, JANUARY 27, 1993

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 compensation of supervisors  
5 and for meetings, duties, quorum, surcharges and compensation  
6 of township auditors.

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

9 Section 1. Section 515 of the act of May 1, 1933 (P.L.103,  
10 No.69), known as The Second Class Township Code, reenacted and  
11 amended July 10, 1947 (P.L.1481, No.567) and amended March 30,  
12 1988 (P.L.312, No.41), December 20, 1991 (P.L.408, No.49) and  
13 December 16, 1992 (P.L. , No.157), is amended to read:

14 Section 515. Compensation of Supervisors.--[(a) Supervisors  
15 may receive from the general township fund, as compensation, an  
16 amount fixed by ordinance, not in excess of the following:

17 Township Population	Annual Maximum Compensation
18 Not more than 4,999	Fifteen hundred dollars
19 5,000 to 9,999	Two thousand dollars

1	10,000 to 14,999	Twenty-six hundred dollars
2	15,000 to 24,999	Thirty-three hundred dollars
3	25,000 to 34,999	Thirty-five hundred dollars
4	35,000 or more	Four thousand dollars

5 Such salaries shall be payable monthly or quarterly for the  
6 duties imposed by the provisions of this act. The population  
7 shall be determined by the latest available official census  
8 figures, except that no township shall be required to reduce the  
9 salary of a supervisor as a result of a decrease in population.  
10 The compensation of supervisors, when acting as superintendents,  
11 roadmasters or laborers, shall be fixed by the township auditors  
12 either per hour, per day, per week, semi-monthly or monthly,  
13 which compensation shall not exceed compensation paid in the  
14 locality for similar services, and such other reasonable  
15 compensation for the use of a passenger car, or a two-axled  
16 four-wheeled motor truck having a chassis weight of less than  
17 two thousand pounds and a maximum gross weight of five thousand  
18 pounds, or a class 2 truck, having a maximum gross weight of  
19 seven thousand pounds when required and actually used for the  
20 transportation of road and bridge laborers and their hand tools  
21 and for the distribution of cinders and patching material from a  
22 stock pile, as the auditors shall determine and approve; but no  
23 supervisor shall receive compensation as a superintendent or  
24 roadmaster for any time he spends attending a meeting of  
25 supervisors.

26 (b) Any benefit provided to or for the benefit of a  
27 supervisor employed by the township as a superintendent,  
28 roadmaster, laborer, secretary, treasurer or secretary/treasurer  
29 in the form of inclusion in a pension plan paid for in whole or  
30 in part by the township shall be deemed to be compensation

1 within the meaning of this act to the extent such benefit is  
2 paid for by the township and shall be fixed by the township  
3 auditors; however:

4 (1) Supervisors shall be eligible for inclusion in such  
5 township pension plans only if they are employed by the township  
6 in the capacity of superintendent, roadmaster, laborer,  
7 secretary, treasurer or secretary/treasurer. In order to be  
8 eligible for inclusion in such plans, supervisor-employees must  
9 meet the same requirements as other employees of the township who  
10 are eligible to participate in a pension plan. Such plans shall  
11 not improperly discriminate in favor of a supervisor-employee.]

12 (a) Supervisors may receive as compensation, an amount  
13 established by ordinance, not in excess of the following:

<u>Township Population</u>	<u>Annual Maximum Compensation</u>
<u>Not more than 4,999</u>	<u>Fifteen hundred dollars</u>
<u>5,000 to 9,999</u>	<u>Two thousand dollars</u>
<u>10,000 to 14,999</u>	<u>Twenty-six hundred dollars</u>
<u>15,000 to 24,999</u>	<u>Thirty-three hundred dollars</u>
<u>25,000 to 34,999</u>	<u>Thirty-five hundred dollars</u>
<u>35,000 or more</u>	<u>Four thousand dollars</u>

21 Salaries are payable monthly or quarterly for the duties imposed  
22 by this act. The population is determined by the latest  
23 available official census figures, except that no township shall  
24 be required to reduce the salary of a supervisor as a result of  
25 a decrease in population. The compensation of the supervisors  
26 when employed as roadmasters, laborers, secretaries, treasurers,  
27 assistant secretaries, assistant treasurers or in any employe  
28 capacities not otherwise prohibited by this or any other act  
29 shall be determined by the board of auditors either per hour,  
30 per day, per week, semi-monthly or monthly and shall be

1 comparable to compensation paid in the locality for similar  
2 services. The board of supervisors may establish a mileage  
3 allowance pursuant to the act of July 20, 1979 (P.L.156, No.51),  
4 entitled "An act establishing a uniform mileage fee for all  
5 officials, officers and employees of the Commonwealth, its  
6 political subdivisions, intermediate units, and authorities," to  
7 be paid to officers and employees for the use of a personal  
8 vehicle when required and actually used for authorized township  
9 business. No supervisor may receive compensation as an employee  
10 for attending a meeting of the board of supervisors. Supervisors  
11 may continue to be compensated under prior law until such time  
12 as an ordinance is enacted under this act. Any change in salary,  
13 compensation or emoluments of the elected office becomes  
14 effective at the beginning of the next term of the supervisor.

15 (b) Any benefit provided to or for the benefit of a  
16 supervisor employed by the township in any employee capacity  
17 under this act in the form of inclusion in a pension plan paid  
18 for in whole or in part by the township is compensation within  
19 the meaning of this act to the extent that the benefit is paid  
20 for by the township and is determined by the board of auditors;  
21 however:

22 (1) Supervisors are eligible for inclusion in township  
23 pension plans only if they are employed by the township in any  
24 employee capacity under this act. In order to be eligible for  
25 inclusion in the plans, supervisor-employees must meet the same  
26 requirements as other employees of the township who are eligible  
27 to participate in a pension plan. Pension plans shall not  
28 improperly discriminate in favor of a supervisor-employee.

29 (2) Once given, auditor approval for inclusion of  
30 supervisor-employees shall not be rescinded in any subsequent

1 years so long as the pension plan remains in effect and said  
2 supervisors remain employed by the township and continue to meet  
3 the same requirements as other employes of the township who are  
4 eligible to participate in a pension plan; nor shall the  
5 auditors be empowered to act in any way that would cause the  
6 disqualification of all or any portion of the pension plan under  
7 the applicable Federal law.

8 (3) No change in the nature or rate of the contributions in  
9 the case of a defined contribution plan and no change in the  
10 benefit formula in the case of a defined benefit plan shall be  
11 initiated by the board of supervisors with respect to a  
12 supervisor-employee without auditor approval.

13 (4) A pension or annuity contract entered into by a township  
14 between January 1, 1959, and March 31, 1985, that includes or  
15 provides for benefits for supervisor-employees or retired  
16 supervisor-employees at township expense shall not be void or  
17 unlawful solely because such inclusion of supervisor-employees or  
18 retired supervisor-employees was not previously approved by the  
19 township auditors. No penalty, assessment, surcharge, forfeiture  
20 or disciplinary action of any kind may occur as a result of such  
21 participation by supervisor-employees.

22 (5) All premium, contribution or similar payments made by a  
23 township on pension or annuity contracts on behalf of  
24 supervisor-employees between January 1, 1959, and March 31, 1985,  
25 which would have been proper but for the absence of auditor  
26 approval, are hereby deemed ratified and approved. Any benefits  
27 payable to any such supervisor-employee or his beneficiaries on  
28 account of such premium, contribution or similar payments made  
29 by a township during the aforementioned period shall continue.  
30 Any such premium, contribution or similar payments made by a

1 township subsequent to March 31, 1985, shall require auditor  
2 approval as provided in this subsection.

3 (6) If a supervisor-employee personally contributed toward a  
4 township-sponsored pension plan or annuity that is not approved  
5 by the township auditors or not deemed approved hereunder, he  
6 shall receive a refund of his total contributions thereto, plus  
7 any interest accumulated thereon. In lieu of a refund of  
8 contributions plus accumulated interest, a supervisor-employee  
9 who personally contributed toward a pension or annuity plan in  
10 which he participated may elect to purchase that portion of his  
11 pension or annuity funded by the township. The appropriate  
12 compensation to be paid to the township by the supervisor-  
13 employee shall be determined by a qualified actuary who shall  
14 report his determination in accordance with the act of December  
15 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension  
16 Plan Funding Standard and Recovery Act."

17 (7) Township supervisors who are not employees of the  
18 township shall not be eligible for participation in any pension  
19 or annuity contract paid in whole or in part by the township. No  
20 township supervisor who was not an employee of the township but  
21 was included in a township-paid pension or annuity plan entered  
22 into by a township between January 1, 1959, and March 31, 1985,  
23 shall be subject to any penalty, assessment, surcharge,  
24 forfeiture or disciplinary action of any kind as a result of  
25 said participation. Any residual interest, value, refund of  
26 premium or benefits payable on or after March 31, 1985, arising  
27 out of the township-paid interest of a non-employee supervisor  
28 shall become the exclusive property of the township.

29 (c) In addition to the compensation authorized under this  
30 section, supervisors while in office or while in the employ of

1 the township may be eligible for inclusion in township-paid  
2 insurance plans, as follows:

3 (1) Supervisors and their dependents shall be eligible for  
4 inclusion in group life, health, hospitalization, medical  
5 service and accident insurance plans paid in whole or in part by  
6 the township. No policy of group life insurance shall contain  
7 any provision for the accrual or deferral of a cash surrender  
8 value, loan value or any other nonforfeitable benefit, in  
9 addition to or beyond the face amount of insurance, that shall  
10 inure to the benefit of the supervisor, any beneficiary or any  
11 other individual having an insurable interest in the life of a  
12 supervisor. Such insurance, however, may contain a provision  
13 that when the insurance, or any portion of it, on a person  
14 covered under the policy ceases because of termination of  
15 employment or the termination of the insured's term of office,  
16 such person shall be entitled to have issued to him by the  
17 insurer, without evidence of insurability, an individual policy  
18 of insurance on any form customarily issued by the insurer at  
19 the age and for the amount applied for if: (i) such amount is  
20 not in excess of the amount of life insurance which ceases  
21 because of such termination; and (ii) the application for the  
22 individual policy is made and first premium is paid to the  
23 insurer within thirty-one days after such termination.

24 Participation by supervisors shall not require auditor approval.  
25 Such insurance shall be uniformly applicable to those covered  
26 and shall not improperly discriminate in favor of supervisors.

27 (2) Any life, health, hospitalization, medical service or  
28 accident insurance coverage contract entered into by a township  
29 between January 1, 1959, and March 31, 1985, that includes or  
30 provides coverage for non-employee supervisors shall not be void

1 or unlawful solely because such inclusion of non-employee  
2 supervisors was subsequently found to be without lawful  
3 authority. No penalty, assessment, surcharge, forfeiture or  
4 disciplinary action of any kind may occur as a result of  
5 participation by non-employee supervisors. Insurance benefits  
6 payable to insureds or their beneficiaries arising out of or on  
7 account of deaths, injuries, accidents or illnesses occurring  
8 prior to the effective date of this amendatory act shall remain  
9 the property of the insureds or their beneficiaries.

10 (3) All payments made by a township on any group life,  
11 health, hospitalization, medical service or accident insurance  
12 coverage contracts on behalf of non-employee supervisors between  
13 January 1, 1959, and March 31, 1985, which would have been  
14 proper but for the absence of auditor approval, are hereby  
15 deemed ratified and approved. Any benefits payable to any such  
16 non-employee supervisor or his beneficiaries on account of such  
17 payments made by a township during the aforementioned period  
18 shall continue.

19 (4) Supervisors and their dependents, whether or not they  
20 are employed by the township, shall also be eligible for  
21 inclusion in township group life, health, hospitalization,  
22 medical service and accident insurance plans if they pay their  
23 pro rata share of the premium. Their inclusion in such plans  
24 shall not require auditor approval, but shall require the  
25 submission of a letter requesting such participation at a  
26 regularly scheduled meeting of the board of township supervisors  
27 prior to commencing such participation. Such insurance shall be  
28 uniformly applicable to those covered and shall not give  
29 eligibility preference to, or improperly discriminate in favor  
30 of, supervisors.



1 (5) The township is hereby authorized and enabled to deduct  
2 from any compensation payable to a supervisor such part of any  
3 insurance premium or charge which is payable by the supervisor  
4 within the terms of the particular township's insurance plan.

5 Section 2. Section 545 of the act, amended October 16, 1981  
6 (P.L.291, No.100) and April 8, 1982 (P.L.256, No.77), is amended  
7 to read:

8 Section 545. Meetings; Duties; Quorum; Surcharges;  
9 Compensation.--(a) The auditors of townships shall meet  
10 annually, at the place of meeting of the supervisors, on the day  
11 following the day which is fixed by this act for organization of  
12 the township supervisors; and shall organize by the election of  
13 a chairman and secretary[, and shall audit, settle, and adjust  
14 the accounts of the supervisors, superintendents, roadmasters,  
15 treasurer, and tax collector of the township, and fix the  
16 compensations for the current year authorized in section 515  
17 hereof]. The board of auditors shall audit, settle and adjust  
18 the accounts of all elected or appointed officials of the  
19 township and its boards or agencies that received or disbursed  
20 funds of or owing to the townships during the immediately  
21 preceding calendar year. The board of auditors shall determine  
22 the compensations for the current year for supervisors employed  
23 by the township. Two auditors shall constitute a quorum. The  
24 auditors shall also make an audit of the dockets, transcripts,  
25 and other official records of the justices of the peace to  
26 determine the amounts of fines and costs paid over or due the  
27 township, and the dockets and records of the justices of the  
28 peace shall be open to inspection by the auditors for such  
29 purpose. Unless otherwise agreed to by the board of auditors and  
30 the officer being audited, the audit shall be conducted at the

1 place the records of the officer are normally kept.

2 [Upon the death or resignation of any of the above officers  
3 the auditor, upon call of the chairman, shall meet and audit the  
4 accounts of the former incumbent, and at that time fix the  
5 compensation of his successor if authorized by this act to fix  
6 the compensation for such office.]

7 (b) Upon the death or resignation of any of the officials  
8 designated in this section to be audited, the board of auditors,  
9 upon call of the chairman, shall meet and audit the accounts of  
10 the former incumbent, and determine the compensation of the  
11 successor if authorized by this act.

12 (c) Any elected or appointed officer, whose act, error or  
13 omission has contributed to the financial loss of any township,  
14 shall be surcharged by the auditors with the amount of such  
15 loss, and the surcharge of any such officer shall take into  
16 consideration as its basis, the results of such act, error or  
17 omission and the results had the procedure been strictly  
18 according to law. The provisions hereof limiting the amount of  
19 any surcharge shall not apply to cases involving fraud or  
20 collusion on the part of such officers, nor to any penalty  
21 ensuing to the benefit of or payable to the Commonwealth.

22 (d) Each auditor shall receive thirty dollars per diem for  
23 each day necessarily employed in the duties of his office, to be  
24 paid out of the funds of the township. In no event shall any  
25 auditor in a township having a population of ten thousand  
26 (10,000) or less be entitled to receive more than six hundred  
27 dollars (\$600) for any calendar year. In no event shall any  
28 auditor in a township having a population in excess of ten  
29 thousand (10,000) be entitled to receive more than twelve  
30 hundred dollars (\$1,200) for any calendar year. A day shall

1 consist of not less than five hours in the aggregate.

2 Section 3. This act shall take effect in 60 days.