

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 436

Session of
1995

INTRODUCED BY NAILOR, ARMSTRONG, TRELLO, FARGO, BARLEY, COY,
MARSICO, GEIST, SATHER, CONTI, CAWLEY, ITKIN, BATTISTO,
SAYLOR, SCHULER, FEESE, RUBLEY, SANTONI, BAKER, CIVERA,
MILLER, CORNELL, SCHRODER, WAUGH, STERN, L. I. COHEN,
E. Z. TAYLOR, BELFANTI, LAUGHLIN, MERRY, HALUSKA AND BOSCOLA,
JANUARY 31, 1995

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 28, 1995

AN ACT

1 Amending the act of June 24, 1931 (P.L.1206, No.331), entitled
2 "An act concerning townships of the first class; amending,
3 revising, consolidating, and changing the law relating
4 thereto," further providing for the disposal of personal
5 property and for general regulations concerning contracts.

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

8 Section 1. Section 1501 of the act of June 24, 1931
9 (P.L.1206, No.331), known as The First Class Township Code,
10 reenacted and amended May 27, 1949 (P.L.1955, No.569) and
11 amended December 14, 1989 (P.L.624, No.72), is amended to read:

12 Section 1501. Suits; Property.--Townships of the first class
13 may--

14 I. Sue and be sued.

15 II. Purchase, acquire by gift, or otherwise, hold, lease,
16 let and convey, by sale or lease, such real and personal
17 property as shall be deemed to be to the best interest of the

1 township: Provided, That no real estate owned by the township
2 shall be sold for a consideration in excess of one thousand five
3 hundred dollars except to the highest bidder after due notice by
4 advertisement for bids or advertisement of a public auction in
5 one newspaper of general circulation in the township. Such
6 advertisement shall be published once not less than ten days
7 prior to the date fixed for the opening of bids or public
8 auction, and such date for opening bids or public auction shall
9 be announced in such advertisement. The [acceptance] AWARD of <—
10 bids shall be made only by public announcement at a regular or
11 special meeting of the board of township commissioners or at the
12 public auction. All bids shall be accepted on the condition that
13 payment of the purchase price in full shall be made within sixty
14 days of the acceptance of bids.

15 The board of township commissioners shall have the authority
16 to reject all bids if such bids are deemed to be less than the
17 fair market value of the real property. In the case of a public
18 auction, the board of township commissioners may establish a
19 minimum bid based on the fair market value of the real property.

20 Except as otherwise hereinafter provided in the case of
21 personal property of an estimated [sale] FAIR MARKET value of <—
22 less than [two hundred dollars] one thousand dollars, no
23 township personal property shall be disposed of, by sale or
24 otherwise, except upon approval of the board of township
25 commissioners, by ordinance or resolution. In cases where the
26 board of township commissioners shall approve a sale of such
27 property, it shall estimate the [sale] FAIR MARKET value of the <—
28 entire lot to be disposed of. If the board of township
29 commissioners shall estimate the [sale] FAIR MARKET value to be <—
30 [two hundred dollars] one thousand dollars or more, the entire

1 lot shall be advertised for sale once, in at least one newspaper
2 of general circulation in the township, not less than ten days
3 prior to the date fixed for the opening of bids or public
4 auction, and such date of opening of bids or public auction
5 shall be announced in such advertisement, and sale of the
6 property so advertised shall be made to the best responsible
7 bidder. THE BOARD OF TOWNSHIP COMMISSIONERS MAY REJECT ANY BIDS <—
8 RECEIVED IF THE BIDS ARE BELIEVED TO BE LESS THAN THE FAIR
9 MARKET VALUE OF THE PROPERTY. The board of township
10 commissioners shall [have authority], by resolution, [to] adopt <—
11 a procedure for the sale of surplus personal property, EITHER <—
12 INDIVIDUAL ITEMS OR LOTS OF ITEMS, of an estimated [sale] FAIR <—
13 MARKET value of less than [two hundred dollars] one thousand
14 dollars and the approval of the board of township commissioners
15 shall not be required for any individual sale that shall be made
16 in conformity to such procedure.

17 The provisions of this clause shall not be mandatory where
18 township property is to be traded in or exchanged for new
19 township property.

20 The provisions of this clause shall not prohibit the sale or
21 exchange of township property to public utilities.

22 The provisions of this clause requiring advertising for bids
23 or sale at public auction and sale to the highest bidder shall
24 not apply where township real or personal property is to be sold
25 to a county, city, borough, town, township, institution
26 district, school district, volunteer fire company, volunteer
27 ambulance service or volunteer rescue squad located within the
28 township, or municipal authority pursuant to the Municipality
29 Authorities Act of 1945, or to a nonprofit corporation engaged
30 in community industrial development or where real property is to

1 be sold to a person for his exclusive use in an industrial
2 development program or where real property is to be sold to a
3 nonprofit corporation organized as a public library, or where
4 real property is to be sold to a nonprofit medical service
5 corporation as authorized by clause LXXII of section 1502, or
6 where real property is to be sold to a nonprofit housing
7 corporation as authorized by clause LXXIII of section 1502. When
8 real property is to be sold to a nonprofit corporation organized
9 as a public library or to a nonprofit medical service
10 corporation or to a nonprofit housing corporation the board of
11 township commissioners may elect to accept such nominal
12 consideration for such sale as it shall deem appropriate. Real
13 property sold pursuant to this clause to a volunteer fire
14 company, volunteer ambulance service or volunteer rescue squad,
15 nonprofit medical service corporation or to a nonprofit housing
16 corporation shall be subject to the condition that when the
17 property is not used for the purposes of the company, service,
18 squad or the corporation the property shall revert to the
19 township.

20 Any officer who sells and each officer who votes in favor of
21 selling any township property, either real or personal, without
22 the provisions of this section having been complied with, shall
23 be subject to surcharge in the amount of any loss sustained by
24 the township by reason of such sale.

25 Section 2. Section ~~1802(b)~~ 1802(A) AND (B) of the act, <—
26 amended June 30, 1978 (P.L.560, No.95), ~~is~~ AND JULY 10, 1990 <—
27 (P.L.389, NO.92), ARE amended to read:

28 Section 1802. General Regulations Concerning Contracts. ~~---**~~ <—

29 * (A) ALL CONTRACTS OR PURCHASES MADE BY ANY TOWNSHIP, <—
30 INVOLVING THE EXPENDITURE OF OVER TEN THOUSAND DOLLARS, EXCEPT

1 THOSE HEREINAFTER MENTIONED, SHALL NOT BE MADE EXCEPT WITH AND
2 FROM THE LOWEST RESPONSIBLE BIDDER, SHALL BE IN WRITING, AND
3 SHALL BE MADE ONLY AFTER NOTICE BY THE SECRETARY, PUBLISHED, IN
4 ONE NEWSPAPER OF GENERAL CIRCULATION, PUBLISHED OR CIRCULATING
5 IN THE COUNTY IN WHICH THE TOWNSHIP IS SITUATED, AT LEAST TWO
6 TIMES AT INTERVALS OF NOT LESS THAN THREE DAYS WHERE DAILY
7 NEWSPAPERS OF GENERAL CIRCULATION ARE EMPLOYED FOR SUCH
8 PUBLICATION, OR IN CASE WEEKLY NEWSPAPERS ARE EMPLOYED THEN THE
9 NOTICE SHALL BE PUBLISHED ONCE A WEEK FOR TWO SUCCESSIVE WEEKS.
10 THE FIRST ADVERTISEMENT SHALL BE PUBLISHED NOT MORE THAN FORTY-
11 FIVE DAYS AND THE SECOND ADVERTISEMENT NOT LESS THAN TEN DAYS
12 PRIOR TO THE DATE FIXED FOR THE OPENING OF BIDS. ADVERTISEMENTS
13 FOR CONTRACTS OR PURCHASES SHALL ALSO BE POSTED IN A CONSPICUOUS
14 PLACE WITHIN THE TOWNSHIP. ADVERTISEMENTS FOR CONTRACTS OR
15 PURCHASES SHALL CONTAIN THE DATE, TIME AND LOCATION FOR OPENING
16 OF BIDS. ALL PLANS AND SPECIFICATIONS SHALL BE ON FILE AT LEAST
17 TEN DAYS IN ADVANCE OF OPENING BIDS. THE AMOUNT OF THE CONTRACT
18 SHALL IN ALL CASES, WHETHER OF STRAIGHT SALE PRICE, CONDITIONAL
19 SALE, BAILMENT LEASE, OR OTHERWISE, BE THE ENTIRE AMOUNT WHICH
20 THE TOWNSHIP PAYS TO THE SUCCESSFUL BIDDER OR HIS ASSIGNS IN
21 ORDER TO OBTAIN THE SERVICES OR PROPERTY, OR BOTH, AND SHALL NOT
22 BE CONSTRUED TO MEAN ONLY THE AMOUNT WHICH IS PAID TO ACQUIRE
23 TITLE OR TO RECEIVE ANY OTHER PARTICULAR BENEFIT OR BENEFITS OF
24 THE WHOLE BARGAIN.

25 * * *

26 (b) (1) In every instance in which any contract for any
27 public work, construction, materials, supplies, or other matters
28 or things for any township shall be awarded upon competitive
29 bids, it shall be the duty of the authorities authorizing the
30 same to award said contract to the lowest responsible bidder.

1 Any published notice for bids shall contain full plans and
2 specifications, or refer to the places where copies thereof can
3 be obtained, and give the time and place of a public meeting of
4 a committee, appointed by the township commissioners or an open
5 meeting of the township commissioners, at which committee or
6 commissioners meeting, bids shall be publicly opened and read,
7 and if it is an open meeting of the township commissioners, the
8 contract may be awarded. If, through lack of a quorum or other
9 reason, no meeting shall be held at such time and place, notice
10 of the same kind shall be repeated once at least six days before
11 the meeting of the subsequent time and place fixed, and the
12 foregoing provisions as to bids shall apply. The same course
13 shall be pursued until a meeting of a committee or the
14 commissioners shall actually be held for receiving and opening
15 bids.

16 (2) NOTWITHSTANDING CLAUSE (1), THE BOARD OF TOWNSHIP <—
17 COMMISSIONERS MAY DIRECT THAT A COMMITTEE OF THE BOARD, A MEMBER
18 OF THE BOARD OR A MEMBER OF THE TOWNSHIP STAFF RECEIVE, OPEN AND
19 REVIEW BIDS DURING NORMAL BUSINESS HOURS AND FORWARD THE
20 INFORMATION TO THE BOARD OF TOWNSHIP COMMISSIONERS FOR
21 SUBSEQUENT AWARD AT A PUBLIC MEETING. BIDDERS SHALL BE NOTIFIED
22 AND OTHER INTERESTED PARTIES, UPON REQUEST, SHALL BE NOTIFIED OF
23 THE DATE, TIME AND LOCATION OF THE OPENING OF BIDS, AND MAY BE
24 PRESENT WHEN THE BIDS ARE OPENED.

25 ~~(2)~~ (3) Any contract made in violation of the provisions <—
26 [hereof] of this section shall be void. But nothing [herein]
27 contained in this section shall prevent the making of contracts
28 for governmental services for a period exceeding one year, but
29 any contract so made shall be executory only for the amounts
30 agreed to be paid for such services to be rendered in succeeding

1 fiscal years: Provided, That if, prior to the letting of any
2 contract, taxpayers of the township, whose property valuation as
3 assessed for taxable purposes within the township shall amount
4 to sixty per centum or over of the total property valuation as
5 assessed for taxable purposes within the township, shall sign
6 and file, with the township secretary of the board, a written
7 protest against such contemplated contract, then such contract
8 shall not be let.

9 ~~(3)~~ (4) Every contract for the construction, reconstruction, <—
10 repair, improvement or maintenance of public works shall contain
11 a provision that any steel products used or supplied in the
12 performance of the contract or any subcontracts thereunder shall
13 be from steel made in the United States. The provisions of this
14 act shall be construed in a manner consistent with the act of
15 March 3, 1978 (P.L.6, No.3), known as the "Steel Products
16 Procurement Act."

17 * * *

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