

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 435

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, MASLAND,
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 February 1, 1966 (1965 P.L.1656, No.581),
2 entitled "An act concerning boroughs, and revising, amending
3 and consolidating the law relating to boroughs," further
4 providing for the disposal of personal property and for
5 regulation of contracts.

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

8 Section 1. Section 1201(4) of the act of February 1, 1966
9 (1965 P.L.1656, No.581), known as The Borough Code, amended
10 December 14, 1989 (P.L.626, No.73), is amended to read:

11 Section 1201. General Powers.--A borough may:

12 * * *

13 (4) Purchase, acquire by gift, or otherwise, hold, lease,
14 let and convey, by sale or lease, such real and personal
15 property as shall be deemed to be to the best interest of the
16 borough: Provided, That no real estate owned by the borough
17 shall be sold for a consideration in excess of fifteen hundred

1 dollars (\$1500), except to the highest bidder after due notice
2 by advertisement for bids or advertisement of a public auction
3 in one newspaper of general circulation in the borough. Such
4 advertisement shall be published once not less than ten days
5 prior to the date fixed for the opening of bids or public
6 auction, and such date for opening bids or public auction shall
7 be announced in such advertisement. The [acceptance] AWARD of
8 bids shall be made only by public announcement at a regular or
9 special meeting of council or at the public auction. All bids
10 shall be accepted on the condition that payment of the purchase
11 price in full shall be made within sixty days of the acceptance
12 of bids. The borough council shall have the authority to reject
13 all bids if such bids are deemed to be less than the fair market
14 value of the real property. In the case of a public auction, the
15 borough council may establish a minimum bid based on the fair
16 market value of the real property. Real estate owned by a
17 borough may be sold at a consideration of fifteen hundred
18 dollars (\$1500) or less without advertisement or competitive
19 bidding only after council estimates the value thereof upon
20 receipt of an appraisal by a qualified real estate appraiser.

21 Except as otherwise hereinafter provided in the case of
22 personal property of an estimated [sale] FAIR MARKET value of
23 less than [two hundred dollars (\$200)] one thousand dollars
24 (\$1,000), no borough personal property shall be disposed of, by
25 sale or otherwise, except upon approval of council, by ordinance
26 or resolution. In cases where council shall approve a sale of
27 such property, it shall estimate the [sale] FAIR MARKET value of
28 the entire lot to be disposed of. If council shall estimate the
29 [sale] FAIR MARKET value to be [two hundred dollars (\$200)] one
30 thousand dollars (\$1,000) or more, the entire lot shall be

1 advertised for sale once, in at least one newspaper of general
2 circulation in the borough, not less than ten days prior to the
3 date fixed for the opening of bids or public auction, and such
4 date of opening of bids or public auction, shall be announced in
5 such advertisement, and sale of the property so advertised shall
6 be made to the best responsible bidder. COUNCIL MAY REJECT ANY <—
7 BIDS RECEIVED IF THE BIDS ARE BELIEVED TO BE LESS THAN THE FAIR
8 MARKET VALUE OF THE PROPERTY. Council shall [have authority], by <—
9 resolution, [to] adopt a procedure for the sale of surplus <—
10 personal property, EITHER INDIVIDUAL ITEMS OR LOTS OF ITEMS, of <—
11 an estimated [sale] FAIR MARKET value of less than [two hundred <—
12 dollars (\$200)] one thousand dollars (\$1,000) and the approval
13 of council shall not be required for any individual sale that
14 shall be made in conformity to such procedure.

15 The provisions of this clause shall not be mandatory where
16 borough property is to be traded in or exchanged for new borough
17 property.

18 The provisions of this clause requiring advertising for bids
19 or sale at public auction and sale to the highest bidder shall
20 not apply where borough real or personal property is to be sold
21 to a county, city, borough, town, township, institution
22 district, school district, volunteer fire company, volunteer
23 ambulance service or volunteer rescue squad located within the
24 borough, or municipal authority pursuant to the Municipality
25 Authorities Act of 1945, is to be sold to a non-profit
26 corporation engaged in community industrial development or where
27 real property is to be sold to a person for his exclusive use in
28 an industrial development program or where real property is to
29 be sold to a non-profit corporation organized as a public
30 library for its exclusive use as a library, or where real

1 property is to be sold to a non-profit medical service
2 corporation as authorized by clause (76) of section 1202 or
3 where real property is to be sold to a non-profit housing
4 corporation as authorized by clause (77) of section 1202 or
5 where real property is to be sold to the Commonwealth or to the
6 Federal Government. When real property is to be sold to a non-
7 profit corporation organized as a public library for its
8 exclusive use as a library or to a non-profit medical service
9 corporation or to a non-profit housing corporation, council may
10 elect to accept such nominal consideration for such sale as it
11 shall deem appropriate. Real property sold pursuant to this
12 clause to a volunteer fire company, volunteer ambulance service
13 or volunteer rescue squad, non-profit medical service
14 corporation or to a non-profit housing corporation shall be
15 subject to the condition that when the property is not used for
16 the purposes of the company, service, squad or the corporation
17 the property shall revert to the borough.

18 * * *

19 Section 2. Section ~~1402(b)~~ 1402(A) AND (B) of the act, <—
20 amended February 14, 1990 (P.L.60, No.10), ~~is~~ AND JULY 10, 1990 <—
21 (P.L.383, NO.90), ARE amended to read:

22 Section 1402. Regulation of Contracts. ~~---***~~(A) ALL <—
23 CONTRACTS OR PURCHASES IN EXCESS OF TEN THOUSAND DOLLARS
24 (\$10,000), EXCEPT THOSE HEREINAFTER MENTIONED, SHALL NOT BE MADE
25 EXCEPT WITH AND FROM THE LOWEST RESPONSIBLE BIDDER AFTER DUE
26 NOTICE IN ONE NEWSPAPER OF GENERAL CIRCULATION IN THE BOROUGH,
27 AT LEAST TWO TIMES AT INTERVALS OF NOT LESS THAN THREE DAYS
28 WHERE DAILY NEWSPAPERS OF GENERAL CIRCULATION ARE AVAILABLE FOR
29 SUCH PUBLICATION, IN CASE OF WEEKLY NEWSPAPERS, SUCH NOTICE ONCE
30 A WEEK FOR TWO SUCCESSIVE WEEKS. THE FIRST ADVERTISEMENT SHALL

1 BE PUBLISHED NOT MORE THAN FORTY-FIVE DAYS AND THE SECOND
2 ADVERTISEMENT NOT LESS THAN TEN DAYS PRIOR TO THE DATE FIXED FOR
3 THE OPENING OF BIDS. ADVERTISEMENTS FOR CONTRACTS OR PURCHASES
4 SHALL ALSO BE POSTED IN A CONSPICUOUS PLACE WITHIN THE BOROUGH.
5 ADVERTISEMENTS FOR CONTRACTS AND PURCHASES SHALL CONTAIN THE
6 DATE, TIME AND LOCATION FOR OPENING OF BIDS. THE AMOUNT OF THE
7 CONTRACT SHALL IN ALL CASES, WHETHER OF STRAIGHT SALE PRICE,
8 CONDITIONAL SALE, BAILMENT LEASE, OR OTHERWISE, BE THE ENTIRE
9 AMOUNT WHICH THE BOROUGH PAYS TO THE SUCCESSFUL BIDDER OR HIS
10 ASSIGNS IN ORDER TO OBTAIN THE SERVICES OR PROPERTY, OR BOTH,
11 AND SHALL NOT BE CONSTRUED TO MEAN ONLY THE AMOUNT WHICH IS PAID
12 TO ACQUIRE TITLE OR TO RECEIVE ANY OTHER PARTICULAR BENEFIT OR
13 BENEFITS OF THE WHOLE BARGAIN. IN AWARDING BIDS, COUNCIL SHALL
14 HAVE THE RIGHT TO TAKE INTO CONSIDERATION SUCH OTHER FACTORS AS
15 THE AVAILABILITY, COST AND QUALITY OF SERVICE.

16 * * *

17 (b) (1) The [acceptance] award of bids shall only be made <—
18 by public announcement at the meeting at which bids are
19 received, or at a subsequent meeting, the time and place of
20 which shall be publicly announced when bids are received. If for
21 any reason one or both of the above meetings shall not be held,
22 the same business may be transacted at any subsequent meeting if
23 at least five days' notice thereof shall be published in the
24 newspaper aforesaid. At council's request, all bids advertised
25 for shall be accompanied by cash, money order, a certified or
26 cashier's good faith check, or a bond with corporate surety in
27 such amount as council shall determine, and, when requested, no
28 bid shall be considered unless so accompanied.

29 (2) NOTWITHSTANDING CLAUSE (1), COUNCIL MAY DIRECT THAT A <—
30 COMMITTEE OF COUNCIL, A MEMBER OF COUNCIL OR A MEMBER OF THE

1 BOROUGH STAFF RECEIVE, OPEN AND REVIEW BIDS DURING NORMAL
2 BUSINESS HOURS AND FORWARD THE INFORMATION TO COUNCIL FOR
3 SUBSEQUENT AWARD AT A PUBLIC MEETING. BIDDERS SHALL BE NOTIFIED
4 AND OTHER INTERESTED PARTIES, UPON REQUEST, SHALL BE NOTIFIED OF
5 THE DATE, TIME AND LOCATION OF THE OPENING OF BIDS, AND MAY BE
6 PRESENT WHEN THE BIDS ARE OPENED.

7 * * *

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