

SECOND CLASS COUNTY CODE - AMEND TAX LEVIES, AUTHORITY TO SELL OR
LEASE REAL PROPERTY, SEPARATE SPECIFICATIONS FOR CONTRACT AND
EMINENT DOMAIN PROCEEDINGS

Act of Dec. 9, 2002, P.L. 1383, No. 170

Cl. 16

Session of 2002

No. 2002-170

HB 1947

AN ACT

Amending the act of July 28, 1953 (P.L.723, No.230), entitled, as amended, "An act relating to counties of the second class and second class A; amending, revising, consolidating and changing the laws relating thereto," further providing for tax levies, for authority to sell or lease real property, for separate specifications for contract and for eminent domain proceedings.

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

Section 1. Section 1970 of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, amended February 14, 1986 (P.L.16, No.6), is amended to read:

Section 1970. Tax Levies.--No tax shall be levied on personal property taxable for county purposes where the rate of taxation thereon is fixed by law other than at the rate so fixed. The county commissioners shall fix, by resolution, the rate of taxation for each year. The tax levied shall be for the purpose of creating a general fund to pay expenses incurred for general county purposes, for the payment of the matters connected with roads provided for in subsection (g) of section 2901 hereof, for the payment of the matters connected with parks and related matters provided for in sections 3007 and 3035 hereof. No such tax in any county of the second class, shall in any one year exceed the rate of twenty-five mills on every dollar of the adjusted valuation: Provided, however, That the rate of taxation for payment of interest and principal on any indebtedness incurred pursuant to the act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act," or any prior or subsequent act governing the incurrence of indebtedness of the county shall be unlimited. No tax for general county purposes in any county of the second class A shall in any one year exceed the rate of [thirty] **forty** mills on every dollar of the adjusted valuation: Provided, however, That the rate of taxation for payment of interest and principal on any indebtedness incurred pursuant to the act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act," or any prior or subsequent act governing the incurrence of indebtedness of the county shall be unlimited. In fixing the rate of taxation, the county commissioners if the rate is fixed in mills, shall also include in the resolution a statement expressing the rate of taxation in dollars and cents on each one hundred dollars of assessed valuation of taxable property.

Section 2. Section 2506 of the act is amended to read:

Section 2506. Authority to Sell or Lease Real Property.--(a) [The board of commissioners may sell or lease, either as lessor or lessee, any real property belonging to the county or to others where the county is lessee. Any sale herein authorized shall be by petition to the court of common pleas, setting forth a description of the property to be sold and the reason therefor; the court shall

thereupon fix a day for hearing and notice of which shall be given in at least two newspapers, in the county, of general circulation, once a week for three consecutive weeks. After hearing, the court shall make such order and decree as shall seem right and proper.] The board of commissioners may sell for not less than the fair market value or lease, either as lessor or lessee, any real property belonging to the county or to others where the county is lessee. If the commissioners know or have reason to believe that the property to be sold contains oil, gas, coal, stone, timber or other mineral or forest products of commercial value, such knowledge or belief shall be advertised together with the description of the land in at least two newspapers of general circulation in the county once a week for three consecutive weeks. The fair market value of real property in the case of a sale valued in excess of ten thousand dollars (\$10,000) shall be determined by the county commissioners in consultation with two of the following: the county assessor, a certified broker-appraiser or certified real estate appraiser doing business within the county.

(a.1) (1) The provisions of subsection (a) shall not be mandatory where county real property is to be sold to any of the following:

(i) A city, borough, town, township, institution district, school district, volunteer fire company, volunteer ambulance service or volunteer rescue squad located within the county.

(ii) A municipal authority pursuant to 53 Pa.C.S. Ch. 56 (relating to municipal authorities).

(iii) A nonprofit corporation or limited partnership in which a nonprofit corporation is a general partner and managing agent engaged in community industrial, commercial or affordable housing development or reuse for its exclusive use for industrial, commercial or affordable housing development. This exemption shall not apply to property owned and operated by a county or subcontracted or operated on behalf of a county in order to conduct existing government functions.

(iv) A person for his exclusive use in an industrial development program.

(v) A nonprofit corporation organized as a public library for its exclusive use as a library.

(vi) A nonprofit medical service corporation for its exclusive use as a site for a medical service facility.

(vii) A nonprofit housing corporation for its exclusive use for housing for the elderly or for low-income housing.

(viii) The Federal Government.

(ix) The Commonwealth.

(x) An authority pursuant to the act of August 23, 1967 (P.L.251, No.102), known as the "Economic Development Financing Law."

(xi) A redevelopment authority pursuant to the act of May 24, 1945 (P.L.991, No.385), known as the "Urban Redevelopment Law."

(2) When the real property is to be sold or leased to a qualified entity under this subsection, the commissioners may elect to accept such nominal consideration for such sale as it shall deem appropriate. Real property sold pursuant to this subsection to any entity under this subsection, other than a city, borough, town, township, institution district, school district, municipal authority pursuant to 53 Pa.C.S. Ch. 56 located within the county, the Federal Government or the Commonwealth shall be subject to the condition that when the property is not used for the purposes of the entity the property shall revert to the county.

(b) In the case of any lease of real property by the county hereunder, such property, with any and all improvements or additions thereon or thereto, shall, in the hands of the lessee, be subject

to taxation by such county and any other municipal or political subdivision therein, in the same manner as all other real estate located in such county, all of which taxes shall be levied and assessed against and paid by the lessee.

(c) This section shall not apply to leases or sales of county property or other property which are otherwise specifically provided for by law.

(d) This section shall not apply to sales to a nonprofit corporation engaged in community industrial, commercial or affordable housing development. Such conveyances or leases shall be at the sole discretion of the county.

Section 3. Section 2517 of the act, amended March 25, 1988 (P.L.292, No.33), is amended to read:

Section 2517. Separate Specifications and Contracts for Certain Items.--**(a)** In the preparation of specifications for the erection, construction and alteration of any public building, when the entire cost of such work shall exceed ten thousand dollars (\$10,000), the architect, engineer or other person preparing such specifications shall prepare separate specifications for the plumbing, heating, ventilating and electrical work. The board of commissioners shall receive separate bids upon each of the said branches of work and award the contract for the same to the lowest responsible bidder for each of said branches.

(b) Notwithstanding the separate specification provisions of subsection (a), an authority organized under the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law, which is engaged to erect, construct or alter a public purpose facility for the county may elect to use an alternative contracting procedure as follows:

(1) The authority may, in its sole discretion, elect to use an alternative contracting procedure for a project involving selected public purpose facilities. If the authority elects to utilize an alternative contracting procedure, its board shall adopt a resolution that the use of an alternative contracting procedure is the most efficient, economical and timely method to proceed with a project. Upon adoption of a resolution, the authority shall request written proposals from proposers for a project involving selected public purpose facilities under an alternative contracting method. In its request for proposals, the authority shall include such terms, conditions and requirements which it deems necessary to protect the authority and the interests of the public.

(2) In reviewing and evaluating the proposals for a project involving selected public purpose facilities, the authority shall, in addition to compliance with the terms, conditions and requirements set forth in the request for proposals, consider the following criteria:

- (i) the cost of the project;
- (ii) experience of the proposer;
- (iii) adherence to the act of March 3, 1978 (P.L.6, No.3), known as The Steel Products Procurement Act;
- (iv) adherence to prevailing wage laws and other work force standards; and

(v) commitment to enter into voluntary contracts with disadvantaged business enterprises. After due consideration of proposals under the criteria described in this paragraph, the authority may, in its discretion, upon recommendation of its designee or project end user, select a proposal and award a contract to a responsible proposer under an alternative contracting procedure. The award of a contract for the project need not be awarded to the lowest priced proposer.

(3) Any contract awarded under this subsection shall be exempt from the act of May 1, 1913 (P.L.155, No.104), entitled "An act regulating the letting of certain contracts for the erection,

construction, and alteration of public buildings," or from any subsequent enactment or reenactment of substantially similar separate bid specification requirements.

(4) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

(i) **Alternative contracting procedure.** A procedure under which a proposer would be responsible for all aspects or phases necessary to achieve the development of a parcel of property. Such aspects or phases of development may include, but not necessarily be limited to, the planning, design, finance, construction and management of property.

(ii) **Design/build contract.** A construction contract in which the contractor is responsible for both the design and construction of any public structure, building or other public improvement of any kind to any public real property.

(iii) **Proposer.** A firm, organization, or company or a combination of firms, organizations or companies acting as a partnership, joint venture, consortium or similar joint relationship with sufficient knowledge, expertise and experience in design/build contracts.

(iv) **Project or project involving a selected public purpose facility.** The demolition, modification and construction of a building or group of buildings with related facilities formerly owned by a county and previously used as a jail or office facility.

(v) **Project end user.** The governmental body or entity that will use the selected public purpose facility under a contract or lease with the authority.

Section 4. Sections 3025 and 3027 of the act are amended to read:

Section 3025. County May Provide Parks.--It shall be lawful for and the right and power is hereby conferred upon the county to enter upon, take, use and appropriate, by the right of eminent domain, and to acquire by purchase, lease, gift, devise or otherwise, private property, for the purpose of establishing, making, enlarging, extending, operating and maintaining public parks **and multi-use recreational trails** within the limits of such county, whenever the county commissioners thereof shall, by resolution, determine thereon.

Section 3027. Title Acquired in Eminent Domain Proceedings.--In every case of the taking of property by eminent domain hereunder, the county [shall acquire the entire title, whether in fee or otherwise, held by the owner or owners of said property, or of any interest therein.] **may acquire fee simple title or an easement or any other interest therein in the said property.**

Section 5. This act shall take effect immediately.

APPROVED--The 9th day of December, A. D. 2002.

MARK S. SCHWEIKER