

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1777 Session of
1975

INTRODUCED BY MESSRS. DeMEDIO, FRYER, RITTER, MEBUS AND WEIDNER,
OCTOBER 1, 1975

SENATOR MURPHY, LOCAL GOVERNMENT, IN SENATE, AS AMENDED,
May 11, 1976

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 regulating contracts as to advertising
5 requirements.

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

8 Section 1. Sections 802 and 802.1, act of May 1, 1933
9 (P.L.103, No.69), known as "The Second Class Township Code,"
10 reenacted and amended July 10, 1947 (P.L.1481, No.567), and
11 amended October 9, 1967 (P.L.371, No.168) and May 6, 1970
12 (P.L.348, No.114), are amended to read:

13 Section 802. Letting Contracts.--(a) Each township shall
14 have the power to make, to authorize, and to ratify,
15 expenditures for lawful purposes from funds available therefor,
16 by borrowing within legal limitations: Provided, That all
17 contracts or purchases in excess of [one thousand five hundred
18 dollars] ~~two thousand dollars~~ TWO THOUSAND FIVE HUNDRED DOLLARS, <—

1 except thoses hereinafter mentioned, shall not be made except
2 with and from the lowest responsible bidder, after due notice in
3 one newspaper of general circulation, published or circulating
4 in the county in which the township is situated, at least three
5 times, at intervals of not less than three days where daily
6 newspapers of general circulation are employed for such
7 publication, or in case weekly newspapers are employed, then the
8 notice shall be published once a week for two successive weeks.
9 The first advertisement shall be published not less than ten
10 days prior to the date fixed for the opening of bids.

11 (b) The amount of the contract shall in all cases, whether
12 of straight sale price, conditional sale, bailment lease, or
13 otherwise, be the entire amount which the township pays to the
14 successful bidder or his assigns in order to obtain the services
15 or property, or both, and shall not be construed to mean only
16 the amount which is paid to acquire title or to receive any
17 other particular benefit or benefits of the whole bargain.

18 (c) The acceptance of bids shall only be made by public
19 announcement at the meeting at which bids are received, or at a
20 subsequent meeting, the time and place of which shall be
21 publicly announced when bids are received. If for any reason one
22 or both of the above meetings shall not be held, the same
23 business may be transacted at subsequent meetings: Provided,
24 That at least five days' notice thereof shall be published in
25 the newspaper aforesaid.

26 (d) The successful bidder, when advertising is required
27 herein, shall be required to furnish a bond with suitable
28 reasonable requirements, guaranteeing performance of the
29 contract, with sufficient surety in the amount of fifty per
30 centum (50%) of the amount of the contract within twenty days

1 after the contract has been awarded, unless the supervisors
2 shall prescribe a shorter period not less than ten days, and
3 upon failure to furnish such bond within such time, the previous
4 award shall be void. Delivery, accomplishment and guarantees may
5 be required in all cases of expenditures, including the
6 exceptions herein.

7 (e) The contracts or purchases made by any supervisors
8 involving an expenditure of over [one thousand five hundred
9 dollars] ~~two thousand dollars~~ TWO THOUSAND FIVE HUNDRED DOLLARS, <—
10 which shall not require advertising or bidding as hereinbefore
11 provided, are as follows:

12 (1) Those made for maintenance, repairs or replacements for
13 water, electric light and other public works of the township,
14 provided they do not constitute new additions, extensions or
15 enlargements of existing facilities and equipment but a bond may
16 be required by the supervisors as in other cases of work done.

17 (2) Those made for improvements, repairs or maintenance of
18 any kind, made or provided by any township, through its own
19 employees: Provided, however, That all materials used for road
20 improvement, maintenance and/or construction in excess of [one
21 thousand five hundred dollars] ~~two thousand dollars~~ TWO THOUSAND <—
22 FIVE HUNDRED DOLLARS be subject to the advertising requirements
23 contained herein.

24 (3) Those where particular types, models or pieces of new
25 equipment, articles, apparatus, appliances, vehicles, or parts
26 thereof, are desired by the supervisors, which are patented and
27 manufactured products.

28 (4) Those involving any policies of insurance or surety
29 company bonds, those made for public utility service under
30 tariffs on file with the Pennsylvania Public Utility Commission,

1 those made with another political subdivision, county, the
2 Commonwealth of Pennsylvania or the Federal Government, or any
3 agency of the Commonwealth or Federal Government, or any
4 municipal authority, including the sale, leasing or loan of any
5 supplies or materials by the Commonwealth, or the Federal
6 Government, or their agencies, but the price thereof, or the
7 expenditure therefor, shall not be in excess of those fixed by
8 the Commonwealth, the Federal Government or their agencies.

9 (5) Those involving personal or professional services.

10 (f) Except as herein provided, no township official, either
11 elected or appointed, who knows, or who by the exercise of
12 reasonable diligence, could know, shall be interested to any
13 appreciable degree, either directly or indirectly, in any
14 contract for the sale or furnishing of any supplies or materials
15 for the use of the township, or for any work to be done for such
16 township involving the expenditure by the township of more than
17 three hundred dollars (\$300) in any year, but this limitation
18 shall not apply to cases where such officer, or appointee of the
19 township, is an employe of the person, firm or corporation to
20 which the money is to be paid in a capacity with no possible
21 influence on the transaction, and in which he cannot be possibly
22 benefited thereby, either financially or otherwise: Provided,
23 however, That in the case of a supervisor, if he knows that he
24 is within the exception just mentioned, he shall so inform the
25 supervisors and shall refrain from voting on the expenditures,
26 or any ordinance relating thereto, and shall in no manner
27 participate therein: Provided, further, That any such official
28 or appointee who shall knowingly violate this provision shall be
29 subject to surcharge to the extent of the damage shown to be
30 thereby sustained by the township, ouster from office, and shall

1 be guilty of a misdemeanor, and upon conviction thereof, shall
2 be sentenced to pay a fine not exceeding five hundred dollars
3 (\$500): Provided, That in the case of the purchase of material
4 for the construction, reconstruction, maintenance and
5 improvement of roads and bridges, the contract, which shall be
6 in writing, and shall be let only on standard specifications of
7 the Department of [Highways] Transportation, and materials so
8 purchased shall only be used in accordance with specifications
9 of said department.

10 Section 802.1. Evasion of Advertising Requirements.--No
11 supervisor or supervisors shall evade the provisions of section
12 eight hundred two as to advertising for bids, by purchasing or
13 contracting for services and personal properties piecemeal for
14 the purpose of obtaining prices under [one thousand five hundred
15 dollars] ~~two thousand dollars~~ TWO THOUSAND FIVE HUNDRED DOLLARS <—
16 upon transactions which should, in the exercise of reasonable
17 discretion and prudence, be conducted as one transaction
18 amounting to more than [one thousand five hundred dollars] ~~two~~ <—
19 ~~thousand dollars.~~ TWO THOUSAND FIVE HUNDRED DOLLARS. This <—
20 provision is intended to make unlawful the evading of
21 advertising requirements by making a series of purchases or
22 contracts each for less than the advertising requirement price,
23 or by making several simultaneous purchases or contracts, each
24 below said price, when, in either case, the transactions
25 involved should have been made as one transaction for one price.
26 Any supervisors who so vote in violation of this provision, and
27 who know that the transaction upon which they so vote is or
28 ought to be part of a larger transaction and that it is being
29 divided in order to evade the requirements as to advertising for
30 bids, shall be jointly and severally subject to surcharge for

1 ten per centum of the full amount of the contract or purchase.
2 Whenever it shall appear that a supervisor may have voted in
3 violation of this section, but the purchase or contract on which
4 he so voted was not approved by the board of supervisors, this
5 section shall be inapplicable.

6 Section 2. This act shall take effect immediately.