

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1630 Session of  
1981

INTRODUCED BY MACKOWSKI, COSLETT, PHILLIPS, TELEK, LEHR,  
STEVENS, LEVI, A. C. FOSTER, JR., PETERSON, WASS, MADIGAN,  
BOWSER, MCINTYRE, CALTAGIRONE, E. H. SMITH AND SNYDER,  
JUNE 16, 1981

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 16, 1981

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. Subsections (a) and (e) of section 802 and  
9 section 802.1, act of May 1, 1933 (P.L.103, No.69), known as  
10 "The Second Class Township Code," reenacted and amended July 10,  
11 1947 (P.L.1481, No.567) and amended October 4, 1978 (P.L.1026,  
12 No.228), 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 [two thousand five hundred  
18 dollars] four thousand dollars, except those hereinafter

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

11 \* \* \*

12 (e) The contracts or purchases made by any supervisors  
13 involving an expenditure of over [two thousand five hundred  
14 dollars] four thousand dollars, which shall not require  
15 advertising or bidding as hereinbefore provided, are as follows:

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

22 (2) Those made for improvements, repairs or maintenance of  
23 any kind, made or provided by any township, through its own  
24 employes: Provided, however, That all materials used for road  
25 improvement, maintenance and/or construction in excess of [two  
26 thousand five hundred dollars] four thousand dollars be subject  
27 to the advertising requirements contained herein.

28 (3) Those where particular types, models or pieces of new  
29 equipment, articles, apparatus, appliances, vehicles, or parts  
30 thereof, are desired by the supervisors, which are patented and

1 manufactured products.

2 (4) Those involving any policies of insurance or surety  
3 company bonds, those made for public utility service under  
4 tariffs on file with the Pennsylvania Public Utility Commission,  
5 those made with another political subdivision, county, the  
6 Commonwealth of Pennsylvania or the Federal Government, or any  
7 agency of the Commonwealth or Federal Government, or any  
8 municipal authority, including the sale, leasing or loan of any  
9 supplies or materials by the Commonwealth, or the Federal  
10 Government, or their agencies, but the price thereof, or the  
11 expenditure therefor, shall not be in excess of those fixed by  
12 the Commonwealth, the Federal Government or their agencies.

13 (5) Those involving personal or professional services.

14 \* \* \*

15 Section 802.1. Evasion of Advertising Requirements.--No  
16 supervisor or supervisors shall evade the provisions of section  
17 eight hundred two as to advertising for bids, by purchasing or  
18 contracting for services and personal properties piecemeal for  
19 the purpose of obtaining prices under [two thousand five hundred  
20 dollars] four thousand dollars upon transactions which should,  
21 in the exercise of reasonable discretion and prudence, be  
22 conducted as one transaction amounting to more than [two  
23 thousand five hundred dollars] four thousand dollars. This  
24 provision is intended to make unlawful the evading of  
25 advertising requirements by making a series of purchases or  
26 contracts each for less than the advertising requirement price,  
27 or by making several simultaneous purchases or contracts, each  
28 below said price, when, in either case, the transactions  
29 involved should have been made as one transaction for one price.  
30 Any supervisors who so vote in violation of this provision, and

1 who know that the transaction upon which they so vote is or  
2 ought to be part of a larger transaction and that it is being  
3 divided in order to evade the requirements as to advertising for  
4 bids, shall be jointly and severally subject to surcharge for  
5 ten per centum of the full amount of the contract or purchase.  
6 Whenever it shall appear that a supervisor may have voted in  
7 violation of this section, but the purchase or contract on which  
8 he so voted was not approved by the board of supervisors, this  
9 section shall be inapplicable.

10 Section 2. Sections 803 and 804 of the act, amended October  
11 9, 1967 (P.L.371, No.168), are amended to read:

12 Section 803. Bonds for Protection of Labor and  
13 Materialmen.--It shall be the duty of every township to require  
14 any person, copartnership, association, or corporation, entering  
15 into a contract with such township for the construction,  
16 erection, installation, completion, alteration, repair of, or  
17 addition to, any public work or improvement of any kind  
18 whatsoever, where the amount of such contract is in excess of  
19 [one thousand five hundred dollars] four thousand dollars,  
20 before commencing work under such contract, to execute and  
21 deliver to such township, in addition to any other bond which  
22 may now or hereafter be required by law to be given in  
23 connection with such contract, an additional bond, for the use  
24 of any and every person, copartnership, association, or  
25 corporation interested, in a sum not less than fifty per centum  
26 and not more than one hundred per centum of the liability under  
27 the contract, as such township may prescribe, having as surety  
28 thereon one or more surety companies legally authorized to do  
29 business in this Commonwealth, conditioned for the prompt  
30 payment of all material furnished and labor supplied or

1 performed in the prosecution of the work, whether or not the  
2 said material or labor enter in and become component parts of  
3 the work or improvement contemplated. Such additional bond shall  
4 be deposited with and held by the township for the use of any  
5 party interested therein. Every such additional bond shall  
6 provide that every person, copartnership, association, or  
7 corporation who, whether as subcontractor or otherwise, has  
8 furnished material or supplied or performed labor in the  
9 prosecution of the work as above provided, and who has not been  
10 paid therefor, may sue in assumpsit on said additional bond in  
11 the name of the township for his, their, or its use and  
12 prosecute the same to final judgment for such sum or sums as may  
13 be justly due him, them, or it, and have execution thereon:  
14 Provided, That the township shall not be liable for the payment  
15 of any costs or expense of any suit.

16 Section 804. Separate Specifications for Branches of Work.--  
17 In the preparation of specifications for the erection or  
18 alteration of any public building, when the entire cost of such  
19 work exceeds [one thousand five hundred dollars] four thousand  
20 dollars, the architect, engineer, or person preparing such  
21 specifications shall prepare separate specifications for the  
22 plumbing, heating, ventilating, and electrical work, and the  
23 township shall receive separate bids upon each of such branches  
24 of work and award the contract for the same to the lowest  
25 responsible bidder.

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