

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 132

Session of  
1981

INTRODUCED BY CORMAN, STAUFFER, LEWIS AND PECORA,  
JANUARY 27, 1981

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 23, 1981

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," prohibiting  
4 architects and engineers from negotiating on public works AND <—  
5 PROVIDING FOR APPLICATIONS FOR INCORPORATION.

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

8 ~~Section 1. Section 1411, act of February 1, 1966 (1965~~ <—  
9 ~~P.L.1656, No.581), known as "The Borough Code," amended April 6,~~  
10 ~~1980 (No.34), is amended to read:~~

11 SECTION 1. SECTION 202, ACT OF FEBRUARY 1, 1966 (1965 <—  
12 P.L.1656, NO.581), KNOWN AS "THE BOROUGH CODE," IS AMENDED TO  
13 READ:

14 SECTION 202. APPLICATIONS FOR INCORPORATION.--(A) THE  
15 APPLICATION FOR INCORPORATION SHALL BE BY A PETITION SIGNED BY A  
16 MAJORITY OF THE FREEHOLDERS RESIDING WITHIN THE LIMITS OF THE  
17 PROPOSED BOROUGH, WHEN ALL PARTS OF THE PROPOSED BOROUGH ARE IN

1 THE SAME TOWNSHIP, AND, WHERE PORTIONS OF THE PROPOSED BOROUGH  
2 ARE IN DIFFERENT TOWNSHIPS, THE PETITION SHALL BE SIGNED BY A  
3 MAJORITY OF THE FREEHOLDERS RESIDING IN EACH OF SUCH SEPARATE  
4 PORTIONS. THE SIGNATURES MUST BE SECURED WITHIN THREE MONTHS  
5 IMMEDIATELY PRECEDING THE PRESENTATION THEREOF TO THE COURT.  
6 SUCH PETITION SHALL BE SUBSCRIBED BY AND SWORN TO BY AT LEAST  
7 ONE OF THE SIGNERS. THE NUMBER OF SIGNERS REQUIRED TO THE  
8 PETITION SHALL BE ASCERTAINED AS OF THE DATE THE PETITION WAS  
9 PRESENTED TO COURT.

10 (B) THE COURT SHALL ESTABLISH A BOROUGH ADVISORY COMMITTEE  
11 WHICH SHALL CONSIST OF TWO RESIDENTS OF THE PROPOSED BOROUGH,  
12 TWO RESIDENTS OF THE EXISTING GOVERNMENTAL UNIT RECOMMENDED BY  
13 THE GOVERNING BODY OF THE UNIT AND NOT RESIDING WITHIN THE  
14 PROPOSED BOROUGH AND ONE RESIDENT OF THE COUNTY NOT RESIDING IN  
15 EITHER AREA WHO SHALL SERVE AS THE CHAIRMAN OF THE COMMITTEE.  
16 SUCH A COMMITTEE SHALL BE ESTABLISHED WHEN A PETITION IS  
17 RECEIVED BY THE COURT FOR THE CREATION OF A BOROUGH. PURSUANT TO  
18 THIS ACT, THE MEMBERS OF SUCH COMMITTEE SHALL BE APPOINTED BY  
19 AND SHALL SERVE AT THE PLEASURE OF THE COURT. THE MEMBERS SHALL  
20 SERVE WITHOUT SALARY, BUT THE COURT MAY ENTITLE EACH SUCH MEMBER  
21 TO REIMBURSEMENT FOR HIS ACTUAL AND NECESSARY EXPENSES INCURRED  
22 IN THE PERFORMANCE OF HIS OFFICIAL DUTIES. THE DIRECTOR OF THE  
23 COUNTY PLANNING COMMISSION SHALL SERVE AS ADVISOR TO THE  
24 COMMITTEE.

25 (C) SUCH COMMITTEE SHALL, WITHIN SIXTY DAYS OF ITS CREATION,  
26 ADVISE THE COURT IN RELATION TO THE ESTABLISHMENT OF THE  
27 PROPOSED BOROUGH. IN PARTICULAR, THE COMMITTEE SHALL RENDER  
28 EXPERT ADVICE AND FINDINGS OF FACT RELATING TO THE DESIRABILITY  
29 OF SUCH AN INCORPORATION, INCLUDING, BUT NOT LIMITED TO, ADVICE  
30 AS TO:

1       (1) A COMMUNITY OF INTEREST AND SPIRIT IN THAT THERE EXISTS  
2 A COMMON SOCIAL, ECONOMIC, RELIGIOUS, GOVERNMENTAL, HEALTH AND  
3 SANITATION, RECREATIONAL AND SECURITY INTERESTS WHICH COMBINE TO  
4 PRODUCE A HOMOGENEOUS COMMUNITY PECULIAR TO THE AREA PROPOSED TO  
5 BE INCORPORATED;

6       (2) THE PROPOSED BOROUGH'S ABILITY TO OBTAIN OR PROVIDE  
7 ADEQUATE AND REASONABLE COMMUNITY SUPPORT SERVICES SUCH AS  
8 POLICE PROTECTION, FIRE PROTECTION AND OTHER APPROPRIATE  
9 COMMUNITY FACILITY SERVICES;

10       (3) THE EXISTING AND POTENTIAL COMMERCIAL, RESIDENTIAL AND  
11 INDUSTRIAL DEVELOPMENT OF THE PROPOSED BOROUGH; AND

12       (4) THE FINANCIAL OR TAX EFFECT ON THE PROPOSED BOROUGH AND  
13 EXISTING GOVERNMENTAL UNIT.

14       (D) THE COURT, IF IT SHALL FIND, AFTER HEARING AND ADVICE OF  
15 THE COMMITTEE, THAT THE CONDITIONS PRESCRIBED BY THIS SECTION  
16 HAVE BEEN COMPLIED WITH, SHALL CERTIFY THE QUESTION TO THE BOARD  
17 OF ELECTIONS OF THE COUNTY FOR A REFERENDUM VOTE OF THE  
18 RESIDENTS OF THE PROPOSED BOROUGH. UPON RECEIPT OF THE CERTIFIED  
19 ELECTION RESULTS, THE COURT SHALL ENTER A FINAL DECREE GRANTING  
20 OR DENYING THE PRAYER OF THE PETITIONERS.

21       SECTION 2. SECTION 1411 OF THE ACT, AMENDED APRIL 6, 1980  
22 (P.L.95, NO.34), IS AMENDED TO READ:

23       Section 1411. Architects and Engineers Employed Prohibited  
24 From Bidding on Public Works; Penalty.--It shall be unlawful for  
25 any architect or engineer, in the employ of any borough, and  
26 engaged in the preparation of plans, specifications or  
27 estimates, to bid or negotiate on any public work at any letting  
28 of such work by the borough, except that any such architect or  
29 engineer who shall have prepared preliminary plans only shall  
30 not be prohibited from bidding or negotiating on the final

1 contract for such work.

2 It shall be unlawful for the officers of any borough charged  
3 with the duty of letting any public work, to award a contract to  
4 any such architect or engineer, in the employ of the borough to  
5 be in [anywise] any way interested in any contract for public  
6 work for the borough or to receive any remuneration or gratuity  
7 from any person interested in such contract except under the  
8 terms and conditions as provided in section 1402(f).

9 Any person violating any of the provisions of this section  
10 shall forfeit his office, and shall be guilty of a misdemeanor,  
11 and on conviction thereof, shall be sentenced to pay a fine not  
12 exceeding five hundred dollars (\$500), or to undergo  
13 imprisonment for not more than six months, or both.

14 Section ~~2~~ 3. This act shall take effect in 60 days.

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