

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 744 Session of  
1989

INTRODUCED BY STOUT, CORMAN, STEWART, BRIGHTBILL, PUNT, LEMMOND,  
PORTERFIELD, WENGER, MADIGAN, AFFLERBACH, REIBMAN AND  
PETERSON, MARCH 23, 1989

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 26, 1990

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 PROVIDING FOR THE DISPLAY OF FLAGS; ~~AND~~ <—  
5 further regulating contracts, advertisements, specifications  
6 and bids for certain contracts; AND PROVIDING A PENALTY. <—

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

9 SECTION 1. CLAUSE XVIII OF SECTION 702 OF THE ACT OF MAY 1, <—  
10 1933 (P.L.103, NO.69), KNOWN AS THE SECOND CLASS TOWNSHIP CODE,  
11 REENACTED AND AMENDED JULY 10, 1947 (P.L.1481, NO.567), IS  
12 AMENDED TO READ:

13 SECTION 702. SUPERVISORS TO EXERCISE POWERS.--THE CORPORATE  
14 POWERS OF TOWNSHIPS OF THE SECOND CLASS SHALL BE EXERCISED BY  
15 THE TOWNSHIP SUPERVISORS. WHERE NO SPECIFIC AUTHORITY IS GIVEN  
16 FOR THE EXPENDITURES INCIDENT TO THE EXERCISE OF ANY POWER  
17 HEREINAFTER CONFERRED, OR WHERE NO SPECIFIC FUND IS DESIGNATED  
18 FROM WHICH SUCH EXPENDITURES SHALL BE MADE, APPROPRIATIONS FOR

1 SUCH EXPENDITURES SHALL BE MADE ONLY FROM THE GENERAL TOWNSHIP  
2 FUND. IN ADDITION TO THE DUTIES IMPOSED UPON THEM BY SECTION 516  
3 HEREOF, THEY SHALL HAVE POWER--

4 \* \* \*

5 XVIII. DISPLAY OF FLAGS.--TO DISPLAY THE FLAG OF THE UNITED  
6 STATES, THE COMMONWEALTH, [OR] THE OFFICIAL POW/MIA FLAG, OR THE  
7 FLAG OF ANY COUNTY, CITY, BOROUGH OR TOWNSHIP ON ANY PUBLIC  
8 BUILDING OR GROUNDS OF THE TOWNSHIP.

9 \* \* \*

10 Section ~~±~~ 2. Section 802(a) and (e) of the act, ~~of May 1,~~ <—  
11 ~~1933 (P.L.103, No.69), known as The Second Class Township Code,~~  
12 ~~reenacted and amended July 10, 1947 (P.L.1481, No.567) and~~  
13 amended December 22, 1981 (P.L.539, No.156) and December 17,  
14 1986 (P.L.1686, No.198), are amended AND THE SECTION IS AMENDED <—  
15 BY ADDING ~~SUBSECTIONS~~ A SUBSECTION to read: <—

16 Section 802. Letting Contracts.--(a) Each township shall  
17 have the power to make, to authorize, and to ratify,  
18 expenditures for lawful purposes from funds available therefor,  
19 by borrowing within legal limitations: Provided, That all  
20 contracts or purchases in excess of [four thousand dollars] ~~ten~~ <—  
21 ~~thousand dollars THE MONETARY THRESHOLD LEVEL FOR THE TOWNSHIP~~ <—  
22 TEN THOUSAND DOLLARS, except those hereinafter mentioned, shall <—  
23 not be made except with and from the lowest responsible bidder,  
24 after due notice in one newspaper of general circulation,  
25 published or circulating in the county in which the township is  
26 situated, at least two times, at intervals of not less than  
27 three days where daily newspapers of general circulation are  
28 employed for such publication, or in case weekly newspapers are  
29 employed, then the notice shall be published once a week for two  
30 successive weeks. The first advertisement shall be published not

1 more than forty-five days and the second advertisement not less  
2 than ten days prior to the date fixed for the opening of bids.  
3 Notice of proposed contracts or purchases shall also be posted  
4 where the board of supervisors normally meets or in a  
5 conspicuous place within the township.

6 ~~(A.1) THE MONETARY THRESHOLD LEVEL ABOVE WHICH COMPETITIVE~~ <—  
7 ~~BIDDING SHALL BE REQUIRED SHALL BE ONE PER CENTUM (1%) OF THE~~  
8 ~~TOTAL OF ALL BUDGETS ADMINISTERED BY THE TOWNSHIP, BUT IN NO~~  
9 ~~CASE SHALL THE MONETARY THRESHOLD BE LESS THAN FOUR THOUSAND~~  
10 ~~DOLLARS, NOR MORE THAN TEN THOUSAND DOLLARS.~~

11 ~~(A.2)~~ (A.1) WRITTEN OR TELEPHONIC PRICE QUOTATIONS FROM AT <—  
12 LEAST THREE QUALIFIED AND RESPONSIBLE CONTRACTORS SHALL BE  
13 REQUESTED FOR ALL CONTRACTS THAT EXCEED FOUR THOUSAND DOLLARS  
14 BUT ARE LESS THAN THE AMOUNT REQUIRING ADVERTISEMENT AND  
15 COMPETITIVE BIDDING OR, IN LIEU OF PRICE QUOTATIONS, A  
16 MEMORANDUM SHALL BE KEPT ON FILE SHOWING THAT FEWER THAN THREE  
17 QUALIFIED CONTRACTORS EXIST IN THE MARKET AREA WITHIN WHICH IT  
18 IS PRACTICABLE TO OBTAIN QUOTATIONS. A WRITTEN RECORD OF  
19 TELEPHONIC PRICE QUOTATIONS SHALL BE MADE AND SHALL CONTAIN AT  
20 LEAST THE DATE OF THE QUOTATION, THE NAME OF THE CONTRACTOR AND  
21 THE CONTRACTOR'S REPRESENTATIVE, THE CONSTRUCTION,  
22 RECONSTRUCTION, REPAIR, MAINTENANCE OR WORK WHICH WAS THE  
23 SUBJECT OF THE QUOTATION AND THE PRICE. WRITTEN PRICE  
24 QUOTATIONS, WRITTEN RECORDS OF TELEPHONIC PRICE QUOTATIONS AND  
25 MEMORANDA SHALL BE RETAINED FOR A PERIOD OF THREE YEARS.

26 \* \* \*

27 (e) The contracts or purchases made by any supervisors  
28 involving an expenditure of over [four thousand dollars] ~~ten~~ <—  
29 ~~thousand dollars THE MONETARY THRESHOLD LEVEL FOR THE TOWNSHIP~~ <—  
30 ~~TEN THOUSAND DOLLARS,~~ which shall not require advertising or <—

1 bidding as hereinbefore provided, are as follows:

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

8 (2) Those made for improvements, repairs or maintenance of  
9 any kind, made or provided by any township, through its own  
10 employes: Provided, however, That all materials used for road  
11 improvement, maintenance and/or construction in excess of [four  
12 thousand dollars] ~~ten thousand dollars~~ ~~THE MONETARY THRESHOLD~~ <—  
13 ~~LEVEL FOR THE TOWNSHIP TEN THOUSAND DOLLARS~~ be subject to the <—  
14 advertising requirements contained herein.

15 (3) Those where particular types, models or pieces of new  
16 equipment, articles, apparatus, appliances, vehicles, or parts  
17 thereof, are desired by the supervisors, which are patented and  
18 manufactured products.

19 (4) Those involving any policies of insurance or surety  
20 company bonds, those made for public utility service under  
21 tariffs on file with the Pennsylvania Public Utility Commission,  
22 those made with another political subdivision, county, the  
23 Commonwealth of Pennsylvania or the Federal Government, or any  
24 agency of the Commonwealth or Federal Government, or any  
25 municipal authority, including the sale, leasing or loan of any  
26 supplies or materials by the Commonwealth, or the Federal  
27 Government, or their agencies, but the price thereof, or the  
28 expenditure therefor, shall not be in excess of those fixed by  
29 the Commonwealth, the Federal Government or their agencies.

30 (5) Those involving personal or professional services.

\* \* \*

Section 2 3. Sections 802.1 and 804 of the act, amended  
December 22, 1981 (P.L.539, No.156), are amended to read:

Section 802.1. Evasion of Advertising Requirements.--(A) No  
supervisor or supervisors shall evade the provisions of section  
eight hundred two as to advertising for bids, by purchasing or  
contracting for services and personal properties piecemeal for  
the purpose of obtaining prices under [four thousand dollars]  
~~upon ten thousand dollars UPON] THE MONETARY THRESHOLD LEVEL FOR~~  
~~THE TOWNSHIP] TEN THOUSAND DOLLARS UPON~~ transactions which  
should, in the exercise of reasonable discretion and prudence,  
be conducted as one transaction amounting to more than [four  
thousand dollars] ~~ten thousand dollars THE MONETARY THRESHOLD~~  
~~LEVEL FOR THE TOWNSHIP TEN THOUSAND DOLLARS~~. This provision is  
intended to make unlawful the evading of advertising  
requirements by making a series of purchases or contracts each  
for less than the advertising requirement price, or by making  
several simultaneous purchases or contracts, each below said  
price, when, in either case, the transactions involved should  
have been made as one transaction for one price. Any supervisors  
who so vote in violation of this provision, and who know that  
the transaction upon which they so vote is or ought to be part  
of a larger transaction and that it is being divided in order to  
evade the requirements as to advertising for bids, shall be  
jointly and severally subject to surcharge for ten per centum of  
the full amount of the contract or purchase. Whenever it shall  
appear that a supervisor may have voted in violation of this  
section, but the purchase or contract on which he so voted was  
not approved by the board of supervisors, this section shall be  
inapplicable.

1       (B) ANY SUPERVISOR WHO VOTES TO UNLAWFULLY EVADE THE <—  
2       PROVISIONS OF SECTION EIGHT HUNDRED TWO AND WHO KNOWS THAT THE  
3       TRANSACTION UPON WHICH HE SO VOTES IS OR OUGHT TO BE A PART OF A  
4       LARGER TRANSACTION AND THAT IT IS BEING DIVIDED IN ORDER TO  
5       EVADE THE REQUIREMENTS AS TO ADVERTISING FOR BIDS, COMMITS A  
6       MISDEMEANOR OF THE THIRD DEGREE FOR EACH CONTRACT ENTERED INTO  
7       AS A DIRECT RESULT OF THAT VOTE. THIS PENALTY SHALL BE IN  
8       ADDITION TO ANY SURCHARGE WHICH MAY BE ASSESSED PURSUANT TO  
9       SUBSECTION (A).

10       Section 804. Separate Specifications for Branches of Work.--  
11       In the preparation of specifications for the erection or  
12       alteration of any public building, when the entire cost of such  
13       work exceeds [four thousand dollars] ~~ten thousand dollars~~ THE <—  
14       ~~MONETARY THRESHOLD LEVEL FOR THE TOWNSHIP TEN THOUSAND DOLLARS,~~ <—  
15       the architect, engineer, or person preparing such specifications  
16       shall prepare separate specifications for the plumbing, heating,  
17       ventilating, and electrical work, and the township shall receive  
18       separate bids upon each of such branches of work and award the  
19       contract for the same to the lowest responsible bidder.

20       Section ~~3~~ 4. This act shall take effect in 60 days. <—