

No. 1990-125

AN ACT

SB 1291

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," providing for collection of tax and municipal claims by suit; further providing for the location and storage of public records, for fees for copying certain public records, for expenses of county officers for attending annual association meetings, for contracts in emergency situations, for contracts not requiring advertisement and bidding, for the governing body and powers of a residential finance authority, for grave markers, for the appointment of assistant fire marshals, and for the title acquired in condemnation proceedings; and making an editorial change.

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

Section 1. The act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, is amended by adding a section to read:

Section 109.1. Collection of Tax and Municipal Claims by Suit; Limitations.—(a) In addition to the remedies provided by law for the collection of tax and municipal claims, the county may proceed for the recovery and collection of any tax or municipal claim against any owner or owners of the property owing such tax or municipal claim by a civil action or other appropriate remedy. To each judgment obtained for such taxes or municipal claim, there shall be added a penalty of ten per cent, interest at the prevailing legal rate and costs of suit. Upon judgment, execution may be issued without any stay or benefit of any exemption law.

(b) The right of the county to collect unpaid taxes or municipal claims under the provisions of this section shall not be affected by the fact that such tax or municipal claims have or have not been entered as liens in the office of the prothonotary.

(c) A civil action brought to recover unpaid taxes or municipal claims shall be commenced within twenty years after the tax is due or after the completion of the improvement from which said claim arises.

Section 2. Sections 405 and 406 of the act are amended to read:

Section 405. Offices, Records and Papers [to be Kept at County Seat].—

(a) [The] *Except as otherwise provided in subsection (a.1), the commissioners, controller, treasurer, sheriff, recorder of deeds, prothonotary, clerk of courts [of quarter sessions and oyer and terminer], clerk of the orphans' court, register of wills, recorder of deeds and district attorney shall keep their respective offices and all public records and papers belonging thereto at the county seat and in such buildings as may be erected or appropriated for such purpose.*

(a.1) The county commissioners shall have the power to keep and maintain records and to contract with persons for storage, retrieval and transmission of county records within or outside the county, except that no

records shall be stored outside the county seat without the approval of the officer in charge of the office to which the records belong. The approval of the president judge shall be required if records are in the custody of agencies of the court of common pleas, the clerk of courts, the prothonotary, the register of wills and the clerk of the orphans' court. Public records stored outside of the county seat shall be made accessible to the general public at the county seat by means of an electronic telecopying system or facility which will permit the retrieval of the records or exact copies thereof within three business days.

(b) The county commissioners shall furnish each of such officers with an office in the county building, courthouse or other building at the county seat.

(c) Any person failing or refusing to maintain his office and to keep all public records and papers belonging thereto in the buildings appropriated for such purpose, in accordance with the provisions of this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to undergo imprisonment until he complies with the provisions of this section, or until sooner discharged by order of the court, and to pay a fine not exceeding five hundred dollars, to be paid to the use of the county.

Section 406. Records Open to Inspection.—(a) The minute book and other fiscal records and documents of the county may be open to the inspection of any taxpayer thereof, but the proper officers may make reasonable rules and regulations respecting the time of such inspection *and fees for copying*.

(b) In case any officer shall refuse to permit the inspection of any fiscal record or document, the taxpayer may, by petition to the court of common pleas of the county, set forth his reasons for desiring to make such inspection, and if the court deems such reasons proper it shall order the officer to permit the inspection to be made.

Section 3. Section 435(a) of the act, amended December 10, 1980 (P.L.1170, No.214), is amended to read:

Section 435. Expenses of Attending; Members to be Paid by County; Time Limit on Meetings.—(a) The expenses of all authorized county officers attending the annual meetings of their associations shall be paid by the several counties out of general county funds. Each of these officers, *except the county commissioners*, may be allowed for his expenses up to seventy-five dollars (\$75) per day for the number of days specified in subsection (b) of this section, together with mileage going to and returning from such meeting. The expense allowance shall be paid for each day not in excess of two in going to and returning from such meeting.

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Section 4. Section 2001(a) and (d) of the act, amended or added December 20, 1985 (P.L.488, No.114) and March 25, 1988 (P.L.292, No.33), are amended and the section is amended by adding a subsection to read:

Section 2001. County Commissioners to Make Contracts.—The County Commissioners may make contracts for lawful purposes and for the purposes of carrying into execution the provisions of this section and the laws of the Commonwealth.

(a) **[All]** *Except as provided in subsection (a.1), all* contracts or purchases in excess of ten thousand dollars (\$10,000) shall be in writing and, except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder meeting specifications, after due notice in at least one newspaper of general circulation, published or circulating in the county at least three (3) times, at intervals of not less than three (3) days where daily newspapers of general circulation are employed for such publication, or in case weekly newspapers are employed, then the notice shall be published once a week for two (2) successive weeks. The first advertisement shall be published not less than ten (10) days prior to the date fixed for the opening of bids.

(a.1) The requirements of this subsection need not be followed in cases of emergency, but in such cases the actual emergency shall be declared and stated by resolution of the commissioners.

* * *

(d) The contracts or purchases made by the commissioners involving an expenditure of over ten thousand dollars (\$10,000) which shall not require advertising or bidding as hereinbefore provided are as follows:

(1) Those for maintenance, repairs or replacements for water, electric light, or other public works: Provided, That they do not constitute new additions, extensions or enlargements of existing facilities and equipment, but a bond may be required by the county commissioners as in other cases of work done.

(2) Those made for improvements, repairs and maintenance of any kind made or provided by the county through its own employes: Provided, That this shall not apply to construction materials used in a street improvement.

(3) Those where particular types, models or pieces of new equipment, articles, apparatus, appliances, vehicles or parts thereof are desired by the county commissioners, which are patented and manufactured products or copyrighted products.

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

(5) Those involving personal or professional services.

(6) Those involving tangible client services provided by nonprofit agencies. For the purposes of this clause, the term "tangible client services" shall mean congregate meals, home-delivered meals, transportation and chore services provided through area agencies on aging.

(7) Those involving the purchase of milk.

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Section 5. The heading and subsection (f) of section 2113 of the act, amended May 3, 1965 (P.L.27, No.25) and October 7, 1975 (P.L.367, No.102), are amended to read:

Section 2113. Markers on Graves; *Memorial Certificates*; Headstones.—
* * *

(f) The county commissioners of the county are hereby authorized and directed to place a marker upon the grave of each deceased service person who, at the time of his or her death, had his or her legal residence in the county, whether or not he or she died in the county and whether or not he or she was buried in the county, and upon the grave of each deceased service person buried in the county who, at the time of his or her death, did not have a legal residence within this Commonwealth. When such deceased service person shall have been a veteran of any war or campaign for which the Government of the United States issued discharge buttons, the markers designated for their graves shall include a facsimile of said discharge button. When such markers are upright flag holders they shall consist of cast bronze or any other weather resistant material. When such deceased service person shall have been a veteran of the Korean Conflict, the markers designated for their graves shall include a circular emblem with the words "Korea, U.S., 1950-1953" in the border thereof, and shall incorporate the insignia of the Army, Navy, Marine Corps, Air Force, and Coast Guard, in the form approved by the Veterans' Commission. *In lieu of placing an upright flag holder on the grave, if the next of kin of a veteran so requests, a memorial certificate may be issued to the next-of-kin of a deceased service person who at the time of his or her death had his or her legal residence in the county, whether or not he or she died in the county and whether or not he or she was buried in the county. The memorial certificate shall indicate the deceased service person's name and designate the war or campaign in which the deceased service person served.*

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Section 6. Sections 2201-A and 2203-A of the act, added November 5, 1981 (P.L.330, No.120), are amended to read:

Section 2201-A. Definitions.—As used in this article the following words and phrases shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Authority." A Residential Finance Authority created and activated pursuant to section 2202-A.

"Bonds." Includes any evidence of indebtedness for money borrowed.

"Field of operation." The area within the territorial boundaries of a county, excluding any area lying within the boundaries of any city *within such county*: Provided, however, That any such city *and any other city or county within the Commonwealth* may, by resolution, elect to be included within the field of operation of the county.

"Lending institution." Any bank, trust company, bank and trust company, mortgage bank, savings bank, credit union, National banking association, savings and loan association, building and loan association, insurance company, or other financial institution authorized to transact

business in the Commonwealth and which customarily lends, or provides service or other aids in lending, money for the purchase or improvement of residences located in the Commonwealth.

“Residential loan note.” An interest-bearing obligation evidencing a loan of money made for the financing of the acquisition, construction, reconstruction, rehabilitation, renovation or improvement of a residence *or the refinancing of costs previously incurred for the acquisition, construction, reconstruction, rehabilitation, renovation or improvement of a residence.*

“Residence.” The structure (or a condominium unit in a structure), including the appurtenant land, located within the authority’s field of operation which is the dwelling place of an individual or one family, provided that, such term may, at the discretion of the board of an authority, *include a structure in such field of operation containing more than one dwelling unit or other living arrangement, including personal care boarding homes, nursing homes, board and care homes or other protective oversight living arrangements which may have common areas, including eating, food preparation, recreation and lounge areas.*

Section 2203-A. Governing Body.—(a) The powers of each authority shall be exercised by a board consisting of **[five members appointed by the board of county commissioners who may remove any member at any time with cause.]** *such number of members as the county commissioners may by resolution prescribe, but not fewer than five. The members shall be appointed by the county commissioners who may remove any member at any time with cause. In the case where a resolution is adopted decreasing the number of members, a member may be removed without cause to provide for the number of members authorized by the resolution.*

(b) Subject to the **[foregoing sentence]** *provisions of subsection (a), the provisions of section 7 of the act of May 2, 1945 (P.L.382, No.164), known as the “Municipality Authorities Act of 1945,” are hereby incorporated by reference and made applicable to authorities.*

Section 7. Sections 2403, 3101 and 3110 of the act are amended to read:

Section 2403. Condemnation Proceedings; Title.—The proceedings for the condemnation of lands under the provisions of this article and for the assessment of damages for property taken, injured or destroyed shall be conducted in the same manner as provided under Article XXVI.

The title acquired by virtue of any such condemnation **[shall]** *may be a title in fee simple or any lesser estate, including, but not limited to, an easement for aviation or any other purpose.*

Section 3101. Appointments; Qualifications; Salaries; Duties of Assistant Fire Marshals.—The county commissioners shall, on the fourth Monday of March, in the year one thousand nine hundred forty-three, and every fourth year thereafter, appoint a citizen of such county to serve as fire marshal thereof for the term of four years or until his successor shall be appointed, and **[two]** *such number of citizens of said county as the county commissioners may deem necessary* to serve as assistant fire marshals thereof for terms of four years or until their successors shall be appointed. In making such appointments, the county commissioner representing the minority polit-

ical party in the county shall name one of the assistant fire marshals, and as vacancies occur the commissioner representing the minority party shall name the successor to any assistant fire marshal selected by a commissioner representing the minority party. No person shall be appointed fire marshal unless he shall have had ten years active service as a member of a fire department, and no person shall be appointed an assistant fire marshal unless he has had five years experience as an active member of a fire department. The salary of the fire marshal and the assistant fire marshals appointed under the authority of this act shall be fixed by the salary board and shall be in lieu of all other salary or compensation from any source whatsoever. The assistant fire marshals appointed as aforesaid shall have the same powers and shall perform the same duties as those prescribed for the fire marshal.

The salary herein authorized shall be provided for by the county commissioners and paid semi-monthly out of the county treasury.

Section 3110. Records and Reports.—The fire marshal shall keep a record of all fires occurring in the county, which record shall show the results of his investigation in relation to each fire and shall be open to the public for examination, and he shall also keep on file in his office all depositions and notes of testimony taken by him in the discharge of his duties, which any person desirous of so doing shall be permitted to examine and take copies of upon payment by them to the said marshal of **[the] a fee [of fifty cents (50¢)] determined by the fire marshal** for such examination, and he shall also, on the fourth Monday of March in each year, make report, in writing, to the county commissioners of his activities as fire marshal during the year preceding his report.

Section 8. This act shall take effect in 60 days.

APPROVED—The 5th day of October, A. D. 1990.

ROBERT P. CASEY