

No. 1980-238

AN ACT

HB 1177

Amending the act of May 1, 1933 (P.L.103, No.69), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," imposing certain restrictions on the powers of townships and authorizing townships to use the provisions of the Local Government Unit Debt Act for financing construction of sewers and drains.

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

Section 1. Section 1501, act of May 1, 1933 (P.L.103, No.69), known as "The Second Class Township Code," reenacted and amended July 10, 1947 (P.L.1481, No.567) and amended October 4, 1978 (P.L.993, No.205), is amended to read:

Section 1501. Power to Establish and Construct Sewers and Drains.—(a) Townships may establish and construct a system of sewers and drainage, locating the same as far as practicable along and within the lines of the public roads of the townships as seems advisable to the board of supervisors. The supervisors may permit and, where necessary for the public health, require adjoining and adjacent property owners to connect with and use the same. In case any owner of property adjoining or adjacent to such sewer shall neglect or refuse to connect with and use said sewer for a period of sixty days after notice to do so has been served upon him by the supervisors, either by personal service or by registered mail, said supervisors or their agents, may enter upon such property and construct such connection. In such case the supervisors shall forthwith, upon completion of the work, send an itemized bill of the cost of construction of such connection to the owner of the property to which connection has been so made, which bill shall be payable forthwith. In case of neglect or refusal by the owner of such property to pay said bill, it shall be the duty of the township supervisors to file municipal liens for said construction within six months of the date of completion of the construction of said connection, the same to be subject in all respects to the general law providing for the filing and recovery of municipal liens.

(b) Whenever an existing sewer system owned by or leased to a township of the second class is extended or altered at the expense of a developer or other private person or corporation under the supervision of such township or a municipal authority of such township, the township supervisors may, by ordinance or resolution, take over said extension or alteration and compel all owners of property which is not already connected to an existing public sewer system and which is accessible to and whose principal building is within one hundred fifty

feet from such sewer extension to pay a tapping fee and make connection therewith and use such sewer system in such manner as they may order.

(c) The supervisors may refund all or part of said tapping fee or fees to the developer or other private person or corporation who or which paid for said construction. Said tapping fees may be based upon front foot construction costs, however, the total of said refunds shall never exceed the cost of said extension or alterations. Once said extension or alteration is taken over it shall become part of the existing sewer system.

(d) Notwithstanding the powers granted pursuant to subsection (a), (b) or (c), no township shall have the power to require any commercial or industrial business to connect to the township sewer system when such commercial or industrial business is operating a sewer treatment plant under mandate of any agency of the Federal or State Government. This exemption shall last as long as such sewer treatment plant continues to meet the specifications and standards mandated by such Federal or State agency and for forty-five days thereafter. If, during the days immediately subsequent to the day a business' sewer treatment plant is determined to be below Federal or State mandates, repairs cannot be made to bring the system back up to satisfactory condition, the township may require such business to connect to its sewage treatment system. In such case, the full costs of connection to, and any necessary refurbishing of, the township sewer system shall be borne by such business.

(e) The exemption provided for in subsection (d) shall not be available in any situation where the business seeking to use it had notice, either actual or constructive, prior to construction of its sewer treatment plant, of the township's intention to construct a sewage treatment plant and to require that business to connect with its system.

(f) The Department of Environmental Resources shall not, subsequent to the effective date of this amendatory act, issue any permit to allow a commercial or industrial business to construct its own permanent sewer treatment plant without the written consent of the township supervisors of the township wherein such treatment plant is proposed to be located.

Section 2. Section 1507 of the act, amended June 10, 1955 (P.L.154, No.48), is amended to read:

Section 1507. Cost of Construction; How Paid.—[The] *All or any portion of the* cost of construction of any such system of sewers or drains, constructed by the authority of this subdivision, [in so far as it relates to sanitary sewers or drains, shall and, in so far as it relates to storm sewers or drains,] may be charged upon the properties accommodated or benefited thereby [to the extent of such benefits] in the manner hereinafter provided.

The township supervisors may finance the cost of construction of any such system of sewers or drains, by the [issuance of general obligation bonds of] *incurring of debt by* the township, within the [constitutional and statutory limitations for the incurring or increasing of indebtedness, and pursuant to the provisions of law relating to the borrowing of money by political subdivisions] *limitations and pursuant to the provisions of the act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act."* Where [general obligation bonds are so issued] *debt is so incurred*, the supervisors [in the case of construction of sanitary sewers or drains shall and in the case of construction of storm sewers or drains may nevertheless be required to] *at their sole discretion may assess all or any portion of* the cost of the construction of such sewers or drains, [to the extent] *as* permitted by law, against the properties accommodated or benefited by such improvements as hereinafter provided, and to deposit the *net* proceeds of such assessments in [the sinking fund] *a sinking or analogous fund* established [for the purpose of retiring such general obligation bonds] *in connection with the incurring of such debt.*

Nothing in this section shall be construed to prevent the financing of the cost of such construction under the provisions of the "Municipality Authorities Act of 1945," and any amendments thereto.

Section 3. This act shall take effect immediately.

APPROVED—The 19th day of December, A. D. 1980.

DICK THORNBURGH