

No. 1981-80

AN ACT

SB 132

Amending the act of February 1, 1966 (1965 P.L.1656, No.581), entitled "An act concerning boroughs, and revising, amending and consolidating the law relating to boroughs," prohibiting architects and engineers from negotiating on public works and providing for applications for incorporation.

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

Section 1. Section 202, act of February 1, 1966 (1965 P.L.1656, No.581), known as "The Borough Code," is amended to read:

Section 202. Applications for Incorporation.—(a) The application for incorporation shall be by a petition signed by a majority of the freeholders residing within the limits of the proposed borough, when all parts of the proposed borough are in the same township, and, where portions of the proposed borough are in different townships, the petition shall be signed by a majority of the freeholders residing in each of such separate portions. The signatures must be secured within three months immediately preceding the presentation thereof to the court. Such petition shall be subscribed by and sworn to by at least one of the signers. The number of signers required to the petition shall be ascertained as of the date the petition was presented to court.

(b) The court shall establish a Borough Advisory Committee which shall consist of two residents of the proposed borough, two residents of the existing governmental unit or units recommended by the respective governing body of the unit or units and not residing within the proposed borough and one resident of the county not residing in either area who shall serve as the chairman of the committee. Such a committee shall be established when a petition is received by the court for the creation of a borough. Pursuant to this act, the members of such committee shall be appointed by and shall serve at the pleasure of the court. The members shall serve without salary, but the court may entitle each such member to reimbursement for his actual and necessary expenses incurred in the performance of his official duties. The director of the County Planning Commission shall serve as advisor to the committee.

(c) Such committee shall, within sixty days of its creation, advise the court in relation to the establishment of the proposed borough. In particular, the committee shall render expert advice and findings of fact relating to the desirability of such an incorporation, including, but not limited to, advice as to:

(1) the proposed borough's ability to obtain or provide adequate and reasonable community support services such as police protection, fire protection and other appropriate community facility services;

(2) *the existing and potential commercial, residential and industrial development of the proposed borough; and*

(3) *the financial or tax effect on the proposed borough and existing governmental unit or units.*

(d) *The court, if it shall find, after hearing and advice of the committee, that the conditions prescribed by this section have been complied with, shall certify the question to the board of elections of the county for a referendum vote of the residents of the proposed borough. Upon receipt of the certified election results, the court shall enter a final decree granting or denying the prayer of the petitioners.*

Section 2. Section 1411 of the act, amended April 6, 1980 (P.L.95, No.34), is amended to read:

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

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

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

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

APPROVED—The 10th day of July, A. D. 1981.

DICK THORNBURGH