

No. 1988-41

AN ACT

HB 1577

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," further providing for the compensation of supervisors and for the purchase of insurance; and making editorial changes.

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

Section 1. Section 515 of the 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 31, 1985 (P.L.294, No.68), is amended to read:

Section 515. Compensation of Supervisors.—(a) Supervisors may receive from the general township fund, as compensation, an amount fixed by ordinance, not in excess of the following:

Township Population	Annual Maximum Compensation
Not more than 4,999	Fifteen hundred dollars
5,000 to 9,999	Two thousand dollars
10,000 to 14,999	Twenty-six hundred dollars
15,000 to 24,999	Thirty-three hundred dollars
25,000 to 34,999	Thirty-five hundred dollars
35,000 or more	Four thousand dollars

Such salaries shall be payable monthly or quarterly for the duties imposed by the provisions of this act. The population shall be determined by the latest available official census figures. The compensation of supervisors, when acting as superintendents, roadmasters or laborers, shall be fixed by the township auditors either per hour, per day, per week, semi-monthly or monthly, which compensation shall not exceed compensation paid in the locality for similar services, and such other reasonable compensation for the use of a passenger car, or a two-axled four-wheeled motor truck having a chassis weight of less than two thousand pounds and a maximum gross weight of five thousand pounds, or a class 2 truck, having a maximum gross weight of seven thousand pounds when required and actually used for the transportation of road and bridge laborers and their hand tools and for the distribution of cinders and patching material from a stock pile, as the auditors shall determine and approve; but no supervisor shall receive compensation as a superintendent or roadmaster for any time he spends attending a meeting of supervisors.

(b) *Any benefit provided to or for the benefit of a supervisor employed by the township as a superintendent, roadmaster, laborer, secretary, treasurer or secretary/treasurer in the form of inclusion in a pension plan paid for*

in whole or in part by the township shall be deemed to be compensation within the meaning of this act to the extent such benefit is paid for by the township and shall be fixed by the township auditors; however:

(1) Supervisors shall be eligible for inclusion in such township pension plans only if they are employed by the township in the capacity of superintendent, roadmaster, laborer, secretary, treasurer or secretary/treasurer. In order to be eligible for inclusion in such plans, supervisor-employees must meet the same requirements as other employees of the township who are eligible to participate in a pension plan. Such plans shall not improperly discriminate in favor of a supervisor-employee.

(2) Once given, auditor approval for inclusion of supervisor-employees shall not be rescinded in any subsequent years so long as the pension plan remains in effect and said supervisors remain employed by the township and continue to meet the same requirements as other employees of the township who are eligible to participate in a pension plan; nor shall the auditors be empowered to act in any way that would cause the disqualification of all or any portion of the pension plan under the applicable Federal law.

(3) No change in the nature or rate of the contributions in the case of a defined contribution plan and no change in the benefit formula in the case of a defined benefit plan shall be initiated by the board of supervisors with respect to a supervisor-employee without auditor approval.

(4) A pension or annuity contract entered into by a township between January 1, 1959, and March 31, 1985, that includes or provides for benefits for supervisor-employees or retired supervisor-employees at township expense shall not be void or unlawful solely because such inclusion of supervisor-employees or retired supervisor-employees was not previously approved by the township auditors. No penalty, assessment, surcharge, forfeiture or disciplinary action of any kind may occur as a result of such participation by supervisor-employees.

(5) All premium, contribution or similar payments made by a township on pension or annuity contracts on behalf of supervisor-employees between January 1, 1959, and March 31, 1985, which would have been proper but for the absence of auditor approval, are hereby deemed ratified and approved. Any benefits payable to any such supervisor-employee or his beneficiaries on account of such premium, contribution or similar payments made by a township during the aforementioned period shall continue. Any such premium, contribution or similar payments made by a township subsequent to March 31, 1985, shall require auditor approval as provided in this subsection.

(6) If a supervisor-employee personally contributed toward a township-sponsored pension plan or annuity that is not approved by the township auditors or not deemed approved hereunder, he shall receive a refund of his total contributions thereto, plus any interest accumulated thereon. In lieu of a refund of contributions plus accumulated interest, a supervisor-employee who personally contributed toward a pension or annuity plan in which he participated may elect to purchase that portion of his pension or annuity funded by the township. The appropriate compensation to be paid to the township by the supervisor-employee shall be determined by a qualified

actuary who shall report his determination in accordance with the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act."

(7) Township supervisors who are not employes of the township shall not be eligible for participation in any pension or annuity contract paid in whole or in part by the township. No township supervisor who was not an employe of the township but was included in a township-paid pension or annuity plan entered into by a township between January 1, 1959, and March 31, 1985, shall be subject to any penalty, assessment, surcharge, forfeiture or disciplinary action of any kind as a result of said participation. Any residual interest, value, refund of premium or benefits payable on or after March 31, 1985, arising out of the township-paid interest of a non-employe supervisor shall become the exclusive property of the township.

(c) In addition to the compensation authorized under this section, supervisors while in office or while in the employ of the township may be eligible for inclusion in township-paid insurance plans, as follows:

(1) Supervisor-employes and their dependents shall be eligible for inclusion in group life, health, hospitalization, medical service and accident insurance plans paid in whole or in part by the township. No policy of group life insurance shall contain any provision for the accrual or deferral of a cash surrender value, loan value or any other nonforfeitable benefit, in addition to or beyond the face amount of insurance, that shall inure to the benefit of the supervisor, any beneficiary or any other individual having an insurable interest in the life of a supervisor. Such insurance, however, may contain a provision that when the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or the termination of the insured's term of office, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of insurance on any form customarily issued by the insurer at the age and for the amount applied for if: (i) such amount is not in excess of the amount of life insurance which ceases because of such termination; and (ii) the application for the individual policy is made and first premium is paid to the insurer within thirty-one days after such termination. Participation by supervisor-employes shall not require auditor approval. Supervisor-employes eligible for inclusion in such plans must meet the same requirements as other employes of the township who are eligible to participate in an insurance plan. Such plans shall not improperly discriminate in favor of a supervisor-employe.

(2) Any life, health, hospitalization, medical service or accident insurance coverage contract entered into by a township between January 1, 1959, and March 31, 1985, that includes or provides coverage for non-employe supervisors shall not be void or unlawful solely because such inclusion of non-employe supervisors was subsequently found to be without lawful authority. No penalty, assessment, surcharge, forfeiture or disciplinary action of any kind may occur as a result of participation by non-employe supervisors. Insurance benefits payable to insureds or their beneficiaries arising out of or on account of deaths, injuries, accidents or illnesses occur-

ring prior to the effective date of this amendatory act shall remain the property of the insureds or their beneficiaries.

(3) All payments made by a township on any group life, health, hospitalization, medical service or accident insurance coverage contracts on behalf of non-employe supervisors between January 1, 1959, and March 31, 1985, which would have been proper but for the absence of auditor approval, are hereby deemed ratified and approved. Any benefits payable to any such non-employe supervisor or his beneficiaries on account of such payments made by a township during the aforementioned period shall continue.

(4) Supervisors and their dependents, whether or not they are employed by the township, shall also be eligible for inclusion in township group life, health, hospitalization, medical service and accident insurance plans if they pay their pro rata share of the premium. Their inclusion in such plans shall not require auditor approval, but shall require the submission of a letter requesting such participation at a regularly scheduled meeting of the board of township supervisors prior to commencing such participation. Such insurance shall be uniformly applicable to those covered and shall not give eligibility preference to, or improperly discriminate in favor of, supervisors.

Section 2. Clause XIII of section 702 of the act, amended June 26, 1975 (P.L.34, No.17), is amended to read:

Section 702. Supervisors to Exercise Powers.—The corporate powers of townships of the second class shall be exercised by the township supervisors. Where no specific authority is given for the expenditures incident to the exercise of any power hereinafter conferred, or where no specific fund is designated from which such expenditures shall be made, appropriations for such expenditures shall be made only from the general township fund. In addition to the duties imposed upon them by section 516 hereof, they shall have power—

* * *

XIII. Insurance.—A. To expend out of the general township fund such amount as may be necessary to secure workmen's compensation insurance for its employes, including volunteer firemen of companies duly recognized by the township by motion or resolution, killed or injured while going to, returning from, or attending fires in said township or territory adjacent thereto, or while performing any other duties authorized by the township[; to].

B. To make contracts of insurance with any fire insurance company, duly authorized by law to transact business in the Commonwealth of Pennsylvania, on any building or property owned by such township[, to].

C. To make contracts with any insurance company, so authorized, insuring any public liability of the township, including insurance on every township officer, official, and employe for liability arising from errors and omissions in the performance of their duties in the course of their employment, except that liability of elected or appointed officials or officers for surcharge in accordance with law shall not be affected hereby[; and to].

D. To make contracts of insurance with any insurance company, or nonprofit hospitalization corporation, or nonprofit medical service corpora-

tion, authorized to transact business within the Commonwealth, insuring its *township supervisors pursuant to section 515, and* employes, and/or their dependents, or any class or classes thereof, under a policy or policies of group insurance covering life, health, hospitalization, medical service, or accident insurance, and may contract with any such company, granting annuities or pensions, for the pensioning of such employes, and for such purposes, may agree to pay part or all of the premiums or charges for carrying such contracts, and may appropriate out of its treasury any money necessary to pay such premiums, or charges, or portions thereof. The supervisors are hereby authorized, enabled and permitted to deduct from the employe's pay, salary or compensation such part of the premium, or charge, as is payable by the employe, and as may be so authorized by the employe in writing. *This provision is subject to the following qualifications:*

(1) Elected officials, except township supervisors who are provided for in section 515, and appointed township officials who are not employes of the township shall not be eligible for participation in any life, health, hospitalization, medical service or accident insurance coverage contract paid in whole or in part by the township. Any such insurance coverage contract entered into by a township between January 1, 1959, and March 31, 1985, that includes or provides coverage for elected officials, except as provided in section 515, or appointed township officials who are not employes of the township, shall not be void or unlawful solely because such inclusion of such officials was subsequently found to be without lawful authority. No penalty, assessment, surcharge, forfeiture or disciplinary action of any kind may occur as a result of participation by such officials: Provided, however, That insurance benefits payable to insureds or their beneficiaries arising out of or on account of deaths, injuries, accidents or illnesses occurring prior to the effective date of this amendatory act shall remain the property of the insureds or their beneficiaries.

E. To contract with any such company or otherwise provide for the granting of annuities or pensions, for the pensioning of employes, and for such purposes, to pay part or all of the premiums or charges for carrying such contracts, and to appropriate out of its treasury any money necessary to pay such premiums, or charges, costs or portions thereof. This provision is subject to the following qualifications:

(1) The benefit coverage shall be provided to supervisor-employes in accordance with section 515.

(2) The supervisors are hereby authorized to deduct, pursuant to an employe's written authorization, from the employe's pay, salary or compensation the part of the premium or charge that is payable by the employe.

(3) Elected officials, except township supervisors who are provided for in section 515, and appointed township officials who are not employes of the township shall not be eligible for participation in any pension or annuity contract paid in whole or in part by the township. No elected official, except as provided in section 515, or appointed township official who is not an employe of the township, included in a township-paid pension or annuity plan entered into by a township between January 1, 1959, and March 31,

1985, shall be subject to any penalty, assessment, surcharge, forfeiture or disciplinary action of any kind as a result of said participation. Any residual interest, value, refund of premium or benefits payable on or after March 31, 1985, arising out of the township-paid interest of the elected or appointed township officials shall become the exclusive property of the township.

(4) If an elected official, except township supervisors who are provided for in section 515, or an appointed official who is not an employe of the township, personally contributed toward a township-sponsored pension plan or annuity, he shall receive a refund of his total contributions thereto, plus any interest accumulated thereon. In lieu of a refund of contributions plus accumulated interest, a township official who personally contributed toward a pension or annuity plan in which he participated may elect to purchase that portion of his pension or annuity funded by the township. The appropriate compensation to be paid to the township by the elected or appointed official shall be determined by a qualified actuary, who shall report his determination in accordance with the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act."

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Section 3. This act shall take effect immediately.

APPROVED—The 30th day of March, A. D. 1988.

ROBERT P. CASEY