

No. 1990-91

AN ACT

SB 744

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 display of flags; further regulating contracts, advertisements, specifications and bids for certain contracts; and providing a penalty.

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

Section 1. Clause XVIII of section 702 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), 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—

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XVIII. Display of Flags.—To display the flag of the United States, the Commonwealth, [or] *the official POW/MIA flag or the flag* of any county, city, borough or township on any public building *or grounds* of the township.

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Section 2. Section 802(a) and (e) of the act, amended December 22, 1981 (P.L.539, No.156) and December 17, 1986 (P.L.1686, No.198), are amended and the section is amended by adding a subsection to read:

Section 802. Letting Contracts.—(a) Each township shall have the power to make, to authorize, and to ratify, expenditures for lawful purposes from funds available therefor, by borrowing within legal limitations: Provided, That all contracts or purchases in excess of [**four thousand dollars**] *ten thousand dollars*, except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder, after due notice in one newspaper of general circulation, published or circulating in the county in which the township is situated, at least two times, at intervals of not less than three 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 successive weeks. The first advertisement shall be published not more than forty-five days and the second advertisement not less than ten days prior to the date fixed for the opening of bids. Notice of proposed contracts or purchases shall also be posted where the

board of supervisors normally meets or in a conspicuous place within the township.

(a.1) Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts that exceed four thousand dollars but are less than the amount requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

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(e) The contracts or purchases made by any supervisors involving an expenditure of over **[four thousand dollars] ten thousand dollars**, which shall not require advertising or bidding as hereinbefore provided, are as follows:

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

(2) Those made for improvements, repairs or maintenance of any kind, made or provided by any township, through its own employes: Provided, however, That all materials used for road improvement, maintenance and/or construction in excess of **[four thousand dollars] ten thousand dollars** be subject to the advertising requirements contained herein.

(3) Those where particular types, models or pieces of new equipment, articles, apparatus, appliances, vehicles, or parts thereof, are desired by the supervisors, which are patented and manufactured 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, county, the Commonwealth of Pennsylvania or the Federal Government, or any agency of the Commonwealth or 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, or the expenditure therefor, shall not be in excess of those fixed by the Commonwealth, the Federal Government or their agencies.

(5) Those involving personal or professional services.

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Section 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] 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**. 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.

(b) Any supervisor who votes to unlawfully evade the provisions of section eight hundred two and who knows that the transaction upon which he so votes is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids commits a misdemeanor of the third degree for each contract entered into as a direct result of that vote. This penalty shall be in addition to any surcharge which may be assessed pursuant to subsection (a).

Section 804. Separate Specifications for Branches of Work.—In the preparation of specifications for the erection or alteration of any public building, when the entire cost of such work exceeds **[four thousand dollars] ten thousand dollars**, the architect, engineer, or person preparing such specifications shall prepare separate specifications for the plumbing, heating, ventilating, and electrical work, and the township shall receive separate bids upon each of such branches of work and award the contract for the same to the lowest responsible bidder.

Section 4. This act shall take effect in 60 days.

APPROVED—The 10th day of July, A. D. 1990.

ROBERT P. CASEY