

No. 1996-109

AN ACT

HB 1130

Amending the act of June 23, 1931 (P.L.932, No.317), entitled "An act relating to cities of the third class; and amending, revising, and consolidating the law relating thereto," further providing for emergency powers of the mayor or chief executive, for sales of personal property, for regulations concerning contracts and for limited vested pension benefits.

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

Section 1. Section 1203 of the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, reenacted and amended June 28, 1951 (P.L.662, No.164) and amended December 16, 1969 (P.L.372, No.163), is amended to read:

Section 1203. Execution of Laws; Powers of Sheriff Conferred; Emergency Powers.—(a) It shall be the duty of the mayor and the chief executive of cities adopting the city manager form of government to be vigilant and active in causing the ordinances of the city, and the laws of the Commonwealth relating to the government of the city, to be executed and enforced.

(b) In order to enable him effectually to preserve the public peace within the city, all the powers which are devolved by the laws of this Commonwealth upon sheriffs, to prevent and suppress mobs, riots, and unlawful and tumultuous assemblies, are hereby conferred upon him. When the mayor or chief executive considers that a state of emergency exists, he may issue his proclamation, which shall be in writing and copies of which shall be made available to all news media, and to each member of city council declaring a state of emergency for a period not to exceed five days, unless extended by action of council. *In the case of a declaration of a state of emergency by the mayor or chief executive for either a citywide or site-specific emergency, city agencies may temporarily implement their emergency assignments without regard to procedures required by other laws pertaining to the incurring of obligations and the employment of temporary workers.* In his proclamation he may prohibit, for all or any part of the city in which there is a clear and present danger to life or property through civil disorder;

(1) Any person being on the public streets, or in the public parks or at any other public place during the hours declared by him to be a period of curfew;

(2) The assembling or gathering of a group of people, in such numbers to be designated by him, upon the public streets, parks or other public places;

(3) The entry or departure of persons into or from any restricted area;

(4) The sale, purchase, or dispensing of any commodities or goods, as designated by him;

(5) The transportation, possession or use of gasoline, kerosene, or other combustible, flammable or explosive liquids or materials, except in connection with the normal operation of motor vehicles, normal home use, or legitimate commercial use;

(6) Any other such activities as he reasonably believes should be prohibited to help preserve life, health, property or the public peace.

(c) The proclamation shall describe any restricted area with particularity and shall specify the hours during which such restrictions are to be in effect.

(d) Any person violating such proclamation of emergency shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine not to exceed three hundred dollars (\$300) or to undergo imprisonment not to exceed thirty days, or both.

Section 2. Section 1901(d) of the act, amended March 25, 1988 (P.L.289, No.32), is amended to read:

Section 1901. Power to Make Contracts; Regulations Concerning Contracts.—* * *

(d) The contracts or purchases made by council involving an expenditure of over ten thousand dollars, 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 of the city, provided they do not constitute new additions, extensions or enlargements of existing facilities and equipment, but a bond may be required by council as in other cases of work done.

(2) Those made for improvements, repairs and maintenance of any kind made or provided by any city through its own employes: Provided, however, 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 council, which are patented and manufactured 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 made during a state of emergency declared by the mayor or chief executive in accord with section one thousand two hundred and three of this act.

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Section 3. Section 1917 of the act, amended July 30, 1963 (P.L.369, No.197), is amended to read:

Section 1917. Sales of Personal Property.—No city personal property shall be disposed of by sale or otherwise except upon approval of council by ordinance or resolution. In cases where council shall approve a sale of city personal property, it shall estimate the sale value of the entire lot to be disposed of. If council shall estimate such sale value to be less than **[two hundred dollars]** *one thousand dollars*, it shall require a notice of the proposed sale to be posted for at least ten days on the bulletin board in the city hall, describing and itemizing the property to be sold and directing that bids may be made thereon at the office of the city clerk. Thereafter, council may sell such property, in whole or in part, for the best price or prices obtainable. If council shall estimate the sale value to be **[two hundred dollars]** *one thousand dollars* or more, the entire lot shall be advertised for sale once in at least one newspaper, in accordance with the provisions of section one hundred nine of this act, and sale of the property so advertised shall be made to the best responsible bidder; and the bids shall not be opened until at least ten days after the said advertisement. Council may sell any such property at auction, but the provisions as to notice contained in this section shall be likewise observed as to the holding of such auction sales. The provisions of this section shall not be mandatory where city personal property is to be traded-in or exchanged for new city personal property.

Section 4. The act is amended by adding a section to read:

Section 4343.2. Limited Vested Benefit.—(a) The ordinance may provide for a limited vested benefit if such would conform to section 305 of the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act." Under the provisions of the benefit, should a member of the pension fund terminate employment before reaching the date which would have been the member's earliest retirement date had the member continued employment by meeting the minimum age and minimum period of continuous service requirements but after having completed twelve years of full-time service, the member shall be entitled to vest his or her retirement benefits subject to the following conditions:

(1) the member must file with the management board of the pension fund a written notice of his or her intention to vest;

(2) the member must include in the notice the date the member intends to terminate his or her service as an employe;

(3) the termination date shall be at least thirty days later than the date of notice to vest;

(4) the member must be in good standing with the city on the date of notice to vest; and

(5) the board shall indicate on the notice to vest the rate of monthly pay of the member as of the date of said notice to vest or the highest average annual salary which the member received during any five years of service preceding said date, whichever is the higher.

(b) Upon reaching the date which would have been the member's earliest retirement date had the member continued his or her employment with the city, the member shall notify the board, in writing, that the member desires to collect his or her pension. The amount of retirement benefits the member is entitled to receive under this section shall be computed as follows:

(1) the initial determination of the member's base retirement benefits shall be computed on the salary indicated on the notice to vest; and

(2) the portion of the base retirement benefits due the member shall be determined by applying to the base amount the percentage that his or her years of service actually rendered bears to the years of service which would have been rendered had the member continued to be employed by the city until his or her earliest retirement date.

Section 5. This act shall take effect in 60 days.

APPROVED—The 11th day of July, A.D. 1996.

THOMAS J. RIDGE