

No. 1998-54

## AN ACT

HB 964

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," further providing for associations and organizations for mayors, for decreases in number of ward council members and for general powers.

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

Section 1. Section 704 of the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, amended January 28, 1988 (P.L.21, No.10), is amended to read:

Section 704. Associations and Organizations for Mayors.—Any mayor may join a mayors' association and borough council shall pay reasonable dues, not to exceed **[twenty-five dollars (\$25)] one hundred dollars (\$100)**, as may be fixed by the association for each mayor belonging to that association. The mayor may attend the annual meeting of the association, which shall be held in the Commonwealth in accordance with the procedure adopted by the association. Each mayor shall be allowed expenses which shall be limited to the registration fee, mileage for use of personal vehicle or reimbursement of actual transportation expense going to and returning from such meeting plus all other actual expenses that the council may have agreed to pay. Every mayor attending the annual meeting shall submit to the council an itemized account of expenses incurred at the annual meeting. The time spent in attending said meeting shall not be more than four days, including time in traveling to and from the meeting.

Section 2. Section 815 of the act is amended to read:

Section 815. Decrease of Number of Ward **[Councilmen] Council Members**.—Whenever **[the electors of]**, *in* any borough divided into wards **[are authorized, by this act, or by a decree of court, to elect two members of council from each ward, or whenever a borough at the time of the enactment of this act shall elect three councilmen from each ward, and]**, the council **[of such borough, in either case,]** consists of more than **[nine] seven** members, at least five percent of the registered electors of such borough shall have power to petition the court of **[quarter sessions] common pleas** for a decrease in the number of members of council from each ward, but in no instance shall the council consist of less than seven members. The purpose of such decrease may be to achieve any or all of the following results: a council which is less unwieldy in size; a council which is comparable in size to those in boroughs not divided into wards; a council consisting of an odd number of members instead of an even number; a

reduction in borough expenditures; and, the expedition of the conduct of council meetings. Said petition shall clearly state whether it is the prayer of the petitioners that the number of members of such council to be elected in each ward shall be reduced from two to one, or from three to two or one, and shall further state the reasons why such reduction in number shall be desired. *The petition may also state whether it is necessary to add a council member or members to be elected at large in order to achieve or maintain a council consisting of at least seven members or to achieve or maintain a council consisting of an odd number of members.* The sufficiency of the number of signers to any such petition shall be ascertained as of the date the petition is presented to court.

The court shall give notice of the filing of such petition by advertisement in the legal journal of the county, if one is published in the county, and in one newspaper of general circulation in the borough, and in such notice shall fix a day and time for hearing. After such hearing, the court may decrease the number of [councilmen] *council members* elected from each ward from two to one, or from three to two or one[.], *and may also provide for the election at large of a member or members of council. The court shall, if necessary, establish a schedule for the subsequent at-large election of council members. The schedule may provide that the initial term of one or more of the council members subsequently elected at large shall be reduced to accommodate a schedule of staggered at-large elections to eventually insure that, as near as may be possible, one-half of the members of council elected at large will be elected at each municipal election.*

At each municipal election thereafter in such borough, where there are two members from each ward, the electors of each ward shall elect one [councilman,] *council member* to hold office for a term of four years from the first Monday of January next succeeding [his] *the* election.

At each municipal election thereafter in such boroughs, where there is one member from each ward, the electors from each of the odd-numbered wards shall, at the first municipal election thereafter, elect one [councilman] *council member* for a term of four years, and the electors from each of the even-numbered wards shall elect one [councilman] *council member* for a term of two years. At each municipal election thereafter, the electors of the even-numbered wards, or odd-numbered wards as the case may be, shall each elect one [councilman] *council member* for a term of four years, to take the place of those whose terms are about to expire. All such [councilmen] *council members* shall take office on the first Monday of January following their election.

In any borough where, under the provisions of this section, the number of [councilmen] *council members* shall be reduced, the [councilmen] *council members* then in office shall remain in office until the end of their respective terms.

Section 3. Section 1201(4) of the act, amended June 26, 1995 (P.L.63, No.12), is amended to read:

Section 1201. General Powers.—A borough may:

\* \* \*

(4) Purchase, acquire by gift, or otherwise, hold, lease, let and convey, by sale or lease, such real and personal property as shall be deemed to be to the best interest of the borough[: **Provided, That no**], *subject to the following restrictions, limitations or exceptions:*

(i) *No* real estate owned by the borough shall be sold for a consideration in excess of fifteen hundred dollars (\$1500), except to the highest bidder after due notice by advertisement for bids or advertisement of a public auction in one newspaper of general circulation in the borough. Such advertisement shall be published once not less than ten days prior to the date fixed for the opening of bids or public auction, and such date for opening bids or public auction shall be announced in such advertisement. The award of contracts shall be made only by public announcement at a regular or special meeting of council or at the public auction. All bids shall be accepted on the condition that payment of the purchase price in full shall be made within sixty days of the acceptance of bids. The borough council shall have the authority to reject all bids if such bids are deemed to be less than the fair market value of the real property. In the case of a public auction, the borough council may establish a minimum bid based on the fair market value of the real property. Real estate owned by a borough may be sold at a consideration of fifteen hundred dollars (\$1500) or less without advertisement or competitive bidding only after council estimates the value thereof upon receipt of an appraisal by a qualified real estate appraiser.

(ii) Except as otherwise hereinafter provided in the case of personal property of an estimated fair market value of less than one thousand dollars (\$1,000), no borough 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 such property, it shall estimate the fair market value of the entire lot to be disposed of. If council shall estimate the fair market value to be one thousand dollars (\$1,000) or more, the entire lot shall be advertised for sale once, in at least one newspaper of general circulation in the borough, not less than ten days prior to the date fixed for the opening of bids or public auction, and such date of opening of bids or public auction, shall be announced in such advertisement, and sale of the property so advertised shall be made to the best responsible bidder. Council may reject any bids received if the bids are believed to be less than the fair market value of the property. Council shall, by resolution, adopt a procedure for the sale of surplus personal property, either individual items or lots of items, of an estimated fair market value of less than one thousand dollars (\$1,000) and the approval of council shall not be required for any individual sale that shall be made in conformity to such procedure.

(iii) The provisions of this clause shall not be mandatory where borough property is to be traded in or exchanged for new borough property.

(iv) The provisions of this clause requiring advertising for bids or sale at public auction and sale to the highest bidder shall not apply where borough real or personal property is to be sold to:

(A) a county, city, borough, town, township, institution district, school district, volunteer fire company, volunteer ambulance service or volunteer rescue squad located within the borough[, or];

(B) a municipal authority pursuant to the Municipality Authorities Act of 1945[, is to be sold to];

(C) a non-profit corporation engaged in community [industrial] development or *reuse only upon entering into a written agreement with the non-profit corporation that requires the property to be used for industrial, commercial or affordable housing purposes. This exemption shall not apply to property on which existing governmental functions are conducted;*

(D) where real property is to be sold to a person for his exclusive use in an industrial development program [or];

(E) where real property is to be sold to a non-profit corporation organized as a public library for its exclusive use as a library[, or];

(F) where real property is to be sold to a non-profit medical service corporation as authorized by clause (76) of section 1202 [or];

(G) where real property is to be sold to a non-profit housing corporation as authorized by clause (77) of section 1202 [or]; or

(H) where real property is to be sold to the Commonwealth or to the Federal Government.

(v) When real property is to be sold to a non-profit corporation organized as a public library for its exclusive use as a library or to a non-profit medical service corporation or to a non-profit housing corporation, council may elect to accept such nominal consideration for such sale as it shall deem appropriate.

(vi) Real property sold pursuant to this clause to a volunteer fire company, volunteer ambulance service or volunteer rescue squad, non-profit medical service corporation or to a non-profit housing corporation shall be subject to the condition that when the property is not used for the purposes of the company, service, squad or the corporation the property shall revert to the borough.

*(vii) The exemption granted under subclause (iv)(C) shall not apply to property owned and operated by the borough or subcontracted or operated on the behalf of the borough in order to conduct existing governmental functions.*

\* \* \*

Section 4. This act shall take effect as follows:

(1) The amendment of section 1201(4) of the act shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

APPROVED—The 7th day of May, A.D. 1998.

THOMAS J. RIDGE