

No. 2004-186

AN ACT

HB 850

Amending the act of July 28, 1953 (P.L.723, No.230), entitled, as amended, "An act relating to counties of the second class and second class A; amending, revising, consolidating and changing the laws relating thereto," providing for insurance and other employee benefits; further providing for authority of county commissioners to make contracts; amending provisions relating to acquisition, use, leasing and disposing of property for county and to construction or alteration of county buildings; further prohibiting disorderly conduct in and about courthouses and jails; further providing for joining with municipality in improving certain streets and highways and for parks and comfort houses; amending provisions relating to monuments and memorials; further providing for acquiring of property for certain purposes and for authority to provide for morgues; amending provisions relating to bridges, viaducts, culverts, roads and recreation places; further providing for findings and declaration of policy and for tax relief; repealing provisions relating to reimbursement to school districts of the first class A; and making editorial changes.

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

Section 1. The act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, is amended by adding a section to read:

Section 1820.1. Insurance and Other Employee Benefits.—In addition to any other authorized compensation, county commissioners and other county officers and their dependents shall be eligible for inclusion in group life, health, hospitalization, medical service and accident insurance plans or employe benefits, or payments made in lieu of such benefits, paid in whole or in part by the county, provided such plans, benefits or payments are offered generally to employes of the county.

Section 2. Section 2001 of the act, amended or added July 1, 1978 (P.L.696, No.121), November 26, 1978 (P.L.1268, No.302), December 10, 1980 (P.L.1165, No.213), December 10, 1982 (P.L.1084, No.254), October 5, 1990 (P.L.519, No.125), January 27, 1998 (P.L.1, No.1) and October 30, 2000 (P.L.616, No.85), is amended to read:

Section 2001. County Commissioners to Make Contracts.—The County Commissioners may make contracts for lawful purposes and for the purposes of carrying into execution the provisions of this section and the laws of the Commonwealth.

(a) Except as provided in subsection (a.1), all contracts or purchases in excess of ten thousand dollars (\$10,000) shall be in writing and, except those hereinafter mentioned[,] ***and except as provided by the act of October 27, 1979 (P.L.241, No.78), entitled "An act authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received,"*** shall not be made except with and

from the lowest responsible *and responsive* bidder meeting specifications, after due notice in at least one newspaper of general circulation, published or circulating in the county at least [**three (3)**] *two (2)* times, at intervals of not less than three (3) 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 (2) successive weeks. The first advertisement shall be published not less than ten (10) days prior to the date fixed for the opening of bids.

(a.1) The requirements of this subsection need not be followed in cases of emergency, but in such cases the actual emergency shall be declared and stated by resolution of the commissioners.

(b) The acceptance of all bids shall be by the controller. They shall be opened publicly at a time and place to be designated in the notice. All the figures shall be announced publicly by the chief clerk *or his designee* and referred to the appropriate departments for tabulation without the presence of the commissioners. Whenever, for any reason, the bid openings shall not be held, the same business may be transacted at a subsequent [**time, if at least five (5) days notice thereof shall be published in the newspaper aforesaid.**] *meeting, the time and place of which shall have been announced at the previous meeting held for such openings. The contract shall be awarded or all bids shall be rejected within thirty (30) days of the opening of the bids, except for bids subject to 62 Pa.C.S. (relating to procurement). Thirty-day extensions of the date for the award may be made by the mutual written consent of the commissioners and any bidder who wishes to remain under consideration for award. The commissioners shall excuse from consideration any bidder not wishing to agree to a request for extension of the date for the award and shall release such bidder from any bid bond or similar bid security furnished under subsection (b.1). All contracts shall be filed with the controller or with the chief clerk, as the case may be, immediately after their execution.*

(b.1) All bids [**may**] *shall*, if required by the commissioners, be accompanied by cash [**or by a certified good faith check**], *a certified check, cashier's check, bank good faith check or irrevocable letter of credit in a reasonable amount* drawn upon a bank authorized to do business in the Commonwealth[, **in an amount not exceeding five per centum (5%) of the bid**] or by a bond with corporate surety [**not exceeding five per centum (5%) of the amount bid**] *in a reasonable amount*. In the event any bidder shall, upon award of the contract to him, fail to comply with the requirements hereinafter stated as to [**a bond**] *security* guaranteeing the performance of the contract, or fail or refuse to enter into a contract, or otherwise fail or refuse to render the required services, the [**good faith deposit by cash, certified check or bond**] *security furnished under this subsection* shall be forfeited to the county as liquidated damages, and the contract subsequently may be awarded to the next lowest bidder, who shall manifest his acceptance of such contract by giving a good faith deposit in the amount and manner set forth in

this subsection on or before the third day after the award of the contract to such bidder and otherwise comply with the provisions of this section.

(b.2) The amount or price of the contract shall, in all cases whether of straight sale price, conditional sale, lease, lease purchase or otherwise, be the entire amount which the county pays to the successful bidder or his assigns, plus the value of personal property transferred from the county to the bidder or his assigns at any time during the duration of the contract, in order to obtain the services or property, or both, and shall not be construed to mean only the amount which is paid to acquire title or to receive any other particular benefit or benefits of the whole bargain. The value of personal property transferred to the bidder or his assigns upon execution of the contract shall be specified in the bid. The method of determining the value of personal property transferred to the bidder or his assigns at a time during the duration of the contract shall be specified in the bid and shall be determined using generally accepted valuation methods.

(c) The successful bidder, when [advertising] a formal bid is required herein, shall be required to furnish a bond [with suitable reasonable requirements] or irrevocable letter of credit or other security in an amount sufficient to the commissioners guaranteeing performance of the contract[, with sufficient surety in the amount of fifty per centum (50%) of the amount of the contract,] within thirty (30) days after the contract has been awarded, unless the commissioners shall prescribe a shorter period or unless the commissioners shall waive the bond requirement in the bid specification. *The successful bidder for a contract which involves the construction, erection, installation, completion, alteration, repair of or addition to any public work or improvement of any kind shall furnish security as provided in section 2518. Performance security for services and contracts for labor and materials delivered on a periodic basis, including, but not limited to, food service contracts, home health services and janitorial services and supplies, may be computed on the expected average value for one or more months at the discretion of the commissioners.* Upon failure to furnish any required bond within such time, the previous awards shall be void and the commissioners may award the contract to the next lowest bidder. Deliveries, performances, accomplishment and guarantees may be required in all cases of expenditures, including the exceptions herein.

(d) The contracts or purchases made by the commissioners involving an expenditure of over ten thousand dollars (\$10,000) 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: Provided, That they do not constitute new additions, extensions or enlargements of existing facilities and equipment[, but a bond]. Security may be required by the county commissioners as in other cases of work done.

(2) Those made for improvements, repairs and maintenance of any kind made or provided by the county through its own employees[: Provided, That

this]. This paragraph 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 the county commissioners, which are patented and manufactured products or copyrighted products.

(4) Those involving any policies of insurance or surety company bonds, those made for public utility service *and electricity, natural gas or telecommunication services: Provided, That, in the case of utilities not under tariffs on file with the Pennsylvania Public Utility Commission[.], contracts made without advertising and bidding shall be made only after receiving written or telephonic price quotations from at least three (3) qualified and responsible contractors, or in lieu of price quotations a memorandum shall be kept on file showing that fewer than three (3) 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 contain at least the date of the quotation, the name of the contractor and the contractor's representative.*

(5) Those involving personal or professional services[.], *including, but not limited to, services of members of the medical or legal profession, registered architects, engineers, certified public accountants or other personal services involving professional expertise.*

(6) Those involving tangible client services provided by nonprofit agencies. For the purposes of this clause, the term "tangible client services" shall mean congregate meals, home-delivered meals, transportation and chore services provided through area agencies on aging.

(6.1) Those involving contracts entered into by nonprofit cooperative hospital service associations for hospitals and nursing homes which are part of the institutional district or which are owned by the county, operated by the county or affiliated with the county by the purchasing of or participating in contracts for materials, supplies and equipment.

(7) Those involving the purchase of milk.

(8) Those made with any public body, including, but not limited to, the sale, lease or loan of any supplies or materials to the county by a public body, provided that the price thereof shall not be in excess of that fixed by the public body. The requirements of 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) shall not apply when a county purchases cooperatively with another public body which has entered into a contract for supplies or materials. As used in this paragraph, "public body" shall mean any of the following:

- (i) the Federal Government;
- (ii) the Commonwealth of Pennsylvania;
- (iii) any other state;
- (iv) a political subdivision, local or municipal authority or other similar local entity of the Commonwealth or any other state; or

(v) an agency of the Federal Government, the Commonwealth or any other state.

(9) Those exclusively involving construction management services.

(10) Those involving computer software.

(d.1) Notwithstanding the provisions of this article to the contrary, the county commissioners shall have authority to enter into contracts for equipment and services related to technology and information systems on the basis of best value procurement. Contracts under best value procurement shall be made only after the county has solicited proposals based on performance and outcome specifications developed by the county and describing at minimum the objectives to be met by the system, the tasks to be performed by the system, the users of the system, system security issues, the time frame for system implementation, potential operating technologies, compatibility with existing systems, training and maintenance and shall indicate the process by which the contract shall be awarded. Best value procurement shall not require a sealed bid process and shall permit the commissioners to negotiate the terms of the agreement with any responsive and responsible vendor.

(e) [Every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works shall comply with the provisions of the act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act."] *Every contract subject to this article shall comply, as applicable, with the provisions of:*

(1) The act of August 15, 1961 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage Act."

(2) The act of December 20, 1967 (P.L.869, No.385), known as the "Public Works Contractors' Bond Law of 1967."

(3) The act of January 23, 1974 (P.L.9, No.4), referred to as the Public Contract Bid Withdrawal Law.

(4) The act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act".

(5) The act of February 17, 1994 (P.L.73, No.7), known as the "Contractor and Subcontractor Payment Act."

(6) 62 Pa.C.S. Chs. 37 Subch. B (relating to motor vehicles), 39 (relating to contracts for public works) and 45 (relating to antibid-rigging).

(f) No person, consultant, firm or corporation contracting with a county for purposes of rendering personal or professional services to the county shall share with any county officer or employe, and no county officer or employe shall accept, any portion of the compensation or fees paid by the county for the contracted services provided to the county except under the following terms or conditions:

(1) Full disclosure of all relevant information regarding the sharing of the compensation or fees shall be made to the board of commissioners.

(2) The board of commissioners must approve the sharing of any fee or compensation for personal or professional services prior to the performance of said services.

(3) No fee or compensation for personal or professional services may be shared except for work actually performed.

(4) No shared fee or compensation for personal or professional services may be paid at a rate in excess of that commensurate for similar personal or professional services.

(g) (1) The board of commissioners may, in its sole discretion, elect to use an alternative contracting procedure to achieve the adaptive reuse of former jail facilities. If the board of commissioners elects to utilize an alternative contracting procedure, the board shall adopt a resolution that the use of an alternative contracting procedure is the most efficient, economical and timely method to secure an adaptive reuse of former jail facilities. Upon adoption of a resolution, the board of commissioners shall request written proposals from proposers for the adaptive reuse of former jail facilities under an alternative contracting method. In its request for proposals, the board shall include such terms, conditions and requirements which it deems necessary to protect the interests of the county.

(2) In reviewing and evaluating the proposals for the adaptive reuse of former jail facilities, the board of commissioners shall, in addition to compliance with the terms, conditions and requirements set forth in the request for proposals, consider the following criteria:

- (i) the cost of the proposer's adaptive reuse proposal;
- (ii) experience of the proposer;
- (iii) preservation of the distinct architectural design and integrity of the former jail facilities;
- (iv) adherence to prevailing wage laws and other work force standards;
- (v) commitment to enter into voluntary contract with disadvantaged business enterprises.

After due consideration of proposals under the criteria described above, the board of commissioners may, in its discretion, select a proposal and award a contract to a responsible proposer for the adaptive reuse of former jail facilities under an alternative contracting procedure. The award of a contract for the adaptive reuse of former jail facilities need not be awarded to the lowest bidder.

(3) Any contract for the adaptive reuse for former jail facilities awarded under this subsection shall be exempt from and not be subject to sections 2517 and 2520 of this act or the act of May 1, 1913 (P.L.155, No.104), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings."

(4) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Adaptive reuse." The alteration, renovation, remodeling, modification or reconstruction of former jail facilities for reuse as courtrooms, office space or

such other facilities and uses as the board of commissioners shall from time to time deem necessary and appropriate.

“Alternative contracting procedure.” A procedure under which a proposer would be responsible for all aspects or phases necessary to achieve the development of a parcel of property. Such aspects or phases of development shall include, but not necessarily be limited to, the planning, design, finance, construction and management of property. The term “alternative contracting procedure” shall be similar in all respects to the commonly understood term in the real estate development and construction industry known as a “turnkey.”

“Former jail facilities.” A building or group of buildings with related facilities owned by a county of the second class which are more than one hundred years old and which were previously used as jail facilities.

“Proposer.” A firm, organization or company or a combination of firms, organizations or companies acting as a partnership, joint venture, consortium or similar joint relationship with sufficient knowledge, expertise and experience in the areas of architectural design, construction, financing of real estate development or construction and real estate management.

Section 3. Section 2505 heading and (a) of the act is amended to read:

Section 2505. Acquiring and Using Real Property; **[Court Approval];** Exceptions.—(a) The county commissioners may purchase *for not more than fair market value*, take by gift, devise or by the power of eminent domain, in accordance with the provisions of this act, such real property at the county seat or in such other places, as may be authorized by law, as they deem necessary for the purposes of a county courthouse, county jail, prison, workhouse, detention house or other county building, either in acquisition of a building suitable for such purposes or in the construction of a new building, or in the alteration, including enlargement, of an existing county building. **[Any purchase herein authorized shall be subject to the approval of the court of common pleas of the county as to purchase price, and no such contract shall bind the county, nor shall any conveyance be valid until the court has so approved the purchase price.]** *The fair market value of real property in the case of a purchase valued in excess of ten thousand dollars (\$10,000) shall be determined by the county commissioners in consultation with two (2) of the following: the county assessor, a licensed real estate broker or licensed real estate appraiser doing business within the county.*

* * *

Section 4. Section 2506.1 of the act, added September 1, 1965 (P.L.431, No.217), is amended to read:

Section 2506.1. Sale and Lease of Real Property to Industrial Development Agencies.—(a) **[Subject only to the provisions of section 2506 of this act with respect to approval of the court, the]** *The* county may sell to any industrial development agency designated as such an industrial development agency, in the manner provided by **[the act of May**

31, 1956 (P.L.1911), known as the “Industrial Development Assistance Law,”] *Chapter 23 of the act of June 29, 1996 (P.L.434, No.67), known as the “Job Enhancement Act,”* with or without consideration, any lands, easements or rights in land, together with any improvements, buildings or structures therein or thereon now owned by the county or hereafter acquired by it for the purpose of establishing or enlarging any commercial, industrial or manufacturing enterprise or research and development center within the county, and make with such industrial development agency any and all agreements for the industrial development of such lands, easements or rights in lands, or may [**with approval of the court as provided in section 2506 of this act,**] lease to any such industrial development agency for a term not exceeding ninety-nine years at a nominal or other rental, as may be determined, any or all lands, easements or rights in lands, together with any improvements, structures or buildings therein or thereon now owned by the county or hereafter acquired by it for the purpose of establishing or enlarging any commercial, industrial or manufacturing enterprise, or research and development center within the county.

(b) Any instrument of sale, lease or other agreement made pursuant to this section may contain provisions regulating the uses of lands, buildings and structures for trade, industry, manufacture, research, residence, recreation, water supply, public activities or other purposes.

Section 5. The act is amended by adding a section to read:

Section 2506.2. Authority to Sell Certain Real Property and Personal Property as a Single Unit.—Notwithstanding any other provisions of law, whenever the board of commissioners determines that the continued ownership and operation of an institution for the care of dependents is economically unfeasible, the county commissioners may sell the real property belonging to the county and being used for such purposes, together with all of the contents of personal property used in connection with and incidental to the operation of the institution, as a single unit. Any such sale of real property and personal property as a single unit shall be deemed a sale of real property only and shall comply only with the provisions of this act relating to the sale of real property.

Section 6. Section 2511 of the act is amended to read:

Section 2511. Sale of Personal Property; Demolition and Removal of County Buildings.—(a) (1) The county commissioners may sell at private sale any county owned personal property valued by the controller at not more than [**five hundred dollars (\$500)**] *one thousand dollars (\$1,000)*, or at public sale, under conditions prescribed by the commissioners, any county owned personal property valued [**by the controller**] in excess of that amount.

(2) *The provisions of this section shall be construed to allow:*

(i) *County property to be traded in or exchanged for new personal property.*

(ii) *The sale of personal property with real property as a single unit.*

(b) Whenever any county owned building [valued by the controller at not more than one thousand dollars (\$1000)] is deemed by the county commissioners to be no longer suitable for use by the county, they may cause it to be demolished or removed from its location by such means or in such manner as they deem to be in the public interest. [Any such county owned building valued by the controller in excess of that amount may be so demolished or removed with the approval of the court of quarter sessions of the county.]

Section 7. Sections 2518 and 2519 of the act are amended to read:

Section 2518. Additional Bond to Protect Labor and Materialmen on Contracts.—[(a) It shall be the duty of the county to require any person, copartnership, association or corporation entering into contract with such county for the construction, erection, installation, completion, alteration, repair of or addition to any public work or improvement, of any kind whatsoever, where the amount of such contract is in excess of five hundred dollars (\$500), before commencing work under such contract, to execute and deliver to such county, in addition to any other bond which may now or hereafter be required by law to be given in connection with such contract, an additional bond for the use of any and every person, copartnership, association or corporation interested, in a sum not less than fifty per centum and not more than one hundred per centum of the contract price, as such county may prescribe. Such bond shall have as surety thereon one or more surety companies legally authorized to do business in this Commonwealth, and shall be conditioned for the prompt payment for all material furnished and labor supplied or performed in the prosecution of the work, whether or not the said material or labor enter into and become component parts of the work or improvement contemplated.

(b) Such additional bond shall be deposited with and held by the county for the use of any party interested therein.

(c) Every such additional bond shall provide that every person, copartnership, association or corporation who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of the work, as above provided, and who has not been paid therefor, may sue in assumpsit on said additional bond, in the name of the county, for his, their or its use, and prosecute the same to final judgment for such sum or sums as may be justly due him, them or it, and have execution thereon, but the county shall not be liable for the payment of any costs or expense of any suit.

(d) Any contract executed in violation of the provisions of this section shall be null and void.]

(e) *Unless covered under the bonding requirements of the act of December 20, 1967 (P.L.869, No.385), known as the "Public Works Contractors' Bond Law of 1967," for construction contracts awarded for amounts between twenty-five thousand dollars (\$25,000) and one hundred*

thousand dollars (\$100,000), the successful bidder shall furnish a bond guaranteeing performance of the contract, in an amount as determined by the board of commissioners at the time of advertising for bids which shall be not less than ten per centum nor more than one hundred per centum of the amount of the contract, within thirty (30) days after the contract is awarded. When a construction contract is awarded in excess of one hundred thousand dollars (\$100,000), the following bonds shall be delivered to the county and shall be binding on the parties upon the execution of the contract:

(1) A performance bond executed by a surety company authorized to do business in this Commonwealth and made payable to the county in an amount as determined by the county commissioners at the time of advertising for bids which shall be not less than fifty per centum nor more than one hundred per centum of the price specified in the contract and conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract.

(2) A payment bond executed by a surety company authorized to do business in this Commonwealth and made payable to the county in an amount equal to one hundred per centum of the price specified in the contract and conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the prosecution of the work. Labor or materials include public utility services and reasonable rentals of equipment for the periods when the equipment is actually used at the site.

(f) A performance bond shall be solely for the protection of the county. A payment bond shall be solely for the protection of claimants supplying labor or materials to the prime contractor to whom the contract was awarded or to any of its subcontractors in the prosecution of the work provided for in the contract, whether or not the labor or materials constitutes a component part of the construction.

(g) Nothing in this section shall be construed to limit the authority of the commissioners to require a performance bond, payment bond or other security in addition to those bonds or in circumstances other than specified in subsection (e).

(h) Actions on payment bonds shall be pursuant to the following:

(1) Subject to paragraph (2), any claimant who has performed labor or furnished material in the prosecution of the work provided for in any contract for which a payment bond has been given under subsection (e) and who has not been paid in full before the expiration of ninety (90) days after the day on which the claimant performed the last of the labor or furnished the last of the materials for which it claims payments may bring an action on the payment bond in its own name, in assumpsit, to recover any amount due it for the labor or material and may prosecute the action to final judgment and have execution on the judgment.

(2) Any claimant who has a direct contractual relationship with any subcontractor of the prime contractor who gave the payment bond but has

no contractual relationship, express or implied, with the prime contractor may bring an action on the payment bond only if it has given written notice to the contractor within ninety (90) days from the date on which the claimant performed the last of the labor or furnished the last of the materials for which it claims payment, stating with substantial accuracy the amount and the name of the person for whom the work was performed or to whom the material was furnished.

(3) Notice shall be served by registered mail in an envelope addressed to the contractor at any place where its office is regularly maintained for the transaction of business or served in any manner in which legal process may be served in the manner provided by law for the service of a summons except that the service need not be made by a public officer.

(i) The dollar threshold set forth in subsection (e) shall be adjusted annually to reflect the annual percentage change in the Composite Construction Cost Index of the United States Department of Commerce occurring in the one-year period ending December 31 of each year.

Section 2519. Compliance with Workmen's Compensation Law.—(a) All contracts executed by the board of commissioners which shall involve the construction or doing of any work involving the employment of labor shall contain a provision that the contractor shall accept, in so far as the work covered by any such contract is concerned, the provisions of the [Workmen's Compensation Act] *act of June 2, 1915 (P.L.736, No.338), known as the "Workers' Compensation Act,"* and any reenactments, supplements or amendments thereto, and that the said contractor will insure his liability thereunder or file with the board of commissioners a certificate of exemption from insurance from the Department of Labor and Industry of the Commonwealth.

(b) The board of commissioners, before signing on behalf of the county any contract, requiring in its performance the employment of labor, shall require proof that the said contractor with whom the contract is made shall have accepted the [Workmen's] *Workers' Compensation Act* and any reenactments, supplements or amendments thereto, and proof that the said contractor has insured his liability thereunder in accordance with the terms of said act or that the contractor has had issued to him a certificate of exemption from insurance from the Department of Labor and Industry.

(c) Any contract executed in violation of the provisions of this section shall be null and void.

Section 8. Section 2520 of the act is repealed.

Section 9. Sections 2529, 2545 and 2550 of the act are amended to read:

Section 2529. Disorderly Conduct In and About Courthouses and Jails Prohibited.—It is unlawful for any person to cause any outcry or disorder, or be guilty of any indecent or unbecoming conduct tending to disturb the peace and good order, in the county courthouse, jail or other county buildings, or to wilfully or carelessly defile, deface or injure the floors, walls or any other portion of said buildings, or fences or railings surrounding the same, or the

carpets, furniture or other articles or things used in or about said buildings, belonging to the county. **[Any person violating any of the provisions of this section shall make restitution for damages arising therefrom and shall, upon summary conviction thereof, be sentenced to pay a fine not exceeding fifty dollars (\$50). In case such person shall neglect or refuse to pay the same, he or she shall suffer an imprisonment not exceeding thirty (30) days.]** *Any person violating any of the provisions of this section commits a summary offense and, upon conviction, shall make restitution for damages arising therefrom.*

Section 2545. **Joining With [City] Municipality in Improving Certain Streets and Highways.**—(a) The board of commissioners of the county may erect public buildings in any **[city, with the approval of the court of common pleas] municipality**. The county may join with the proper authorities of such **[city] municipality** in the grading, regrading, paving, re-paving and improvement of so much of the streets and highways as are in, upon or alongside of the grounds upon which said public buildings stand.

(b) The commissioners may enter into contract with any such **[city authorities] municipality** for the payment of a just proportion of the expense of said grading, re-grading, paving, re-paving and improvement of said streets and highways, and may appropriate from the county treasury sufficient funds for this purpose. They may act with any committee or committees which may be appointed by such **[city authorities] municipality** to establish grades, determine the kind and quality of paving materials to be used, and ratify the contracts entered into by said **[city authorities] municipality** in the course of said improvements.

(c) No obligation shall rest upon the county for any proportion of the expenses of such improvements until the selection of grades and paving materials and the acceptance of bids by said **[city authorities] municipality** shall have been ratified by the board of commissioners **[and approved by the court of common pleas]**.

Section 2550. **Parks and Comfort Houses.**—(a) The commissioners may purchase land to be used for park purposes or for the erection thereon of public comfort houses. The land purchased for such purposes shall lie within the limits of **[such county and shall be contiguous to or in the vicinity of a county road and shall be outside the corporate limits of any city or borough. The amount that may be expended for such purposes shall not exceed the sum of twenty-five thousand dollars (\$25,000) in any one year, nor the sum of five thousand dollars (\$5,000) for any single park or any single comfort house. The board of commissioners shall agree with the owner or owners of the land selected upon a reasonable price to be paid therefor.] the county**. The county may erect and maintain on the land such buildings as are necessary to fulfill the purpose for which the land was acquired.

(b) The commissioners may adopt reasonable rules and regulations necessary for preservation, management and control of parks and public

comfort houses so established and maintained, and provide penalties for the breach thereof. All rules adopted by the board of commissioners shall, before becoming operative, be published once a week for three consecutive weeks in **[three newspapers] a newspaper** of general circulation in the county[, and shall be recorded in the office of the recorder of deeds in the county].

(c) Any person violating any rules so adopted shall[, **upon summary conviction, be sentenced to pay a fine of not less than five dollars (\$5) nor more than twenty-five dollars (\$25), which shall be payable to the county treasurer, who shall add the fine to the fund for the improvement of county roads] be guilty of a summary offense.**

Section 10. Section 2555 of the act, amended April 20, 1956 (1955 P.L.1481, No.490), is amended to read:

Section 2555. Monuments and Memorials to War Veterans.—The commissioners may appropriate money for and provide for the erection of monuments or memorials commemorating the services of any person who has served in the armed forces of the United States or in any women's organization officially connected therewith during any part of any war or armed conflict in which the United States has been or may hereafter be engaged. **[The style and character of such monuments or memorials shall be approved by the State Art Commission.]**

Section 11. Section 2556 of the act is amended to read:

Section 2556. Assistance to Private or Municipal Agencies.—The commissioners may, in order to prevent duplication, appropriate money to assist any individual, private corporation, city, borough or township in the erection of any monument or memorial for said soldiers, sailors and marines. **[Before any such appropriation is made, the style and character of such monument or memorial shall be approved by the State Art Commission.]**

Section 12. Sections 2557 and 2558 of the act are repealed.

Section 13. Section 2577(b) of the act is amended to read:

Section 2577. Acquiring of Property.—* * *

(b) Counties may appropriate money from the public funds or by issuance of bonds in accordance with **[the Municipal Borrowing Law] 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing)** for the erection on said property taken, purchased or acquired through condemnation proceedings, public auditoriums, public libraries, public memorial buildings and monuments. They may appropriate moneys for the operation and maintenance of such public auditoriums, public libraries, memorials, buildings and monuments.

Section 14. Section 2579 of the act is repealed.

Section 15. Section 2590 of the act is amended to read:

Section 2590. Authority to Provide; Approval.—The county commissioners of each county may[, **upon presentment of two successive grand juries of the county,**] buy or lease land and construct and maintain thereon, at the expense of the county, a morgue for the reception and care of the bodies of all unclaimed deceased persons upon whom it may be necessary

to hold a coroner's inquest and such other bodies as the coroner of the county may, by written order, direct to be received therein. The location of such morgue shall be determined by the county commissioners, subject to the approval of **[a judge of the court of common pleas and]** the coroner of the county.

Section 16. Sections 2706, 2707, 2708, 2709, 2710 and 2711 of the act are repealed.

Section 17. Sections 2712, 2713(a), 2714, 2715 and 2717 of the act are amended to read:

Section 2712. **Building or Rebuilding in Emergencies.**—When a county bridge wholly within the county or on the boundary line between any two counties has been or shall hereafter be destroyed or partially destroyed, or rendered impassable, or becomes insufficient or inadequate to accommodate public travel, or in any other case of emergency it becomes necessary to construct or reconstruct any such bridge, the county commissioners of the county or of any two counties, in case of a joint county bridge, may**[, upon the approval of the court or courts of quarter sessions of such county or counties,]** erect and construct a new bridge, or reconstruct any partially destroyed, insufficient or inadequate bridge, to take the place of such wholly or partially destroyed or insufficient or inadequate bridge.

Section 2713. **Bridges on Boundary Between Two Counties.**—(a) Whenever any bridge contemplated by any of the provisions of this article is on the boundary line between two counties or within one-fourth of a mile therefrom and necessary for the accommodation of the inhabitants of both counties, the commissioners of such counties shall act jointly in the exercise of all powers conferred upon them and in the performance of all duties imposed upon them. **[Whenever a petition of residents or taxpayers is required, such petition shall be made by the required number of petitioners in each county to the court of quarter sessions or the court of common pleas, as the case may be, of their county. Whenever any other petitions are required, such petitions shall be made to each of such courts. Each of the courts shall act on such petitions and shall communicate its approval or disapproval to the other court.]**

* * *

Section 2714. **Payment of Cost[; Tolls; Rentals].**—(a) All expenses in connection with any matters affecting any such bridge shall be borne by the two counties jointly in equal proportions or in any other proportions, as the commissioners of the several counties may agree upon.

[(b) Whenever it is necessary for any counties, in the construction of any joint county bridge or in joint acquisition of any toll bridge, to issue bonds in payment of such construction, erection or acquisition, including the approaches thereto, the damages sustained by the owner or owners of lands taken in the construction thereof and including reasonable fees for necessary legal services required in such construction, erection and

acquisition, the commissioners of said counties may, with the consent of the State Department of Highways, if the cost of such bridge was in excess of four hundred thousand dollars (\$400,000), assess, supervise and collect such tolls for the use of said bridge for all traffic as may be necessary, to pay the interest on said bonds and to create a sinking fund for the payment and redemption of the same within thirty years from the date of the issue thereof, and to pay also the costs and expenses of operating and maintaining such bridge between the time of construction thereof and the date of the redemption of the last of said bonds to be redeemed by such tolls.

(c) The tolls so collected shall be distributed between such counties in proportion to the amount paid in by each county in the original construction or acquisition, and in no case shall any tolls be collected after the redemption of the original bonds issued. All moneys received from rentals for special use shall be divided between them in the same proportion. Such bridge shall be a joint county bridge.]

Section 2715. Management, Maintenance and Policing of Joint County [Toll Bridges; Turning over to the Department of Highways] *Bridges*.—(a) Such joint county bridge shall be managed, controlled, maintained, repaired, operated and lighted by the commissioners of the said counties, acting as a joint county bridge commission, who are hereby authorized to act jointly in the employment of such [workmen, collectors of tolls and other] employes and fix their wages, salaries and compensation, and to incur such other expenses in the construction and operation of such bridge, including the compensation of such attorneys as in their judgment shall be requisite and necessary. All decisions of such commission shall require a majority vote of all the members thereof.

(b) The commissioners of said counties, acting jointly, shall have power to adopt such rules and regulations as they deem expedient for the proper government and management of said bridge and for the preservation of good order, safe traffic and proper conduct thereon. [Said commissioners are further authorized and empowered to make arrests for evasion or attempts to evade the payment of tolls which may be fixed or may have been fixed for passage over said bridge.]

(c) For any violations thereof, the offender or offenders shall be [subject to a fine or penalty of not less than ten dollars (\$10) or more than twenty-five dollars (\$25), together with costs, to be adjudged by a justice of the peace or alderman of either of said counties, and on default of payment of such fine or penalty, then to imprisonment of not less than ten (10) days or more than thirty (30) days in the county prison of either of said counties] *guilty of a summary offense*.

[(d) Said powers and duties of said commissioners, acting as a joint commission, shall continue until the redemption of the last of said bonds to be redeemed by such tolls, whereupon said bridge shall be turned over as a free bridge to the Commonwealth, if such bridge crosses a

river and is located on a State highway route or connects two State highway routes. Thereafter, such bridge shall be maintained by the Highway Department at the expense of the Commonwealth.]

Section 2717. Dykes, Banks, Causeways and Sluiceways for Protection of Bridges and Highways.—The board of commissioners, for the purpose of protecting any county bridge or bridges, the abutments thereof and approaches thereto and any public highway adjacent to the same from the incursions of floods or waters of any creek, rivulet or other stream, and so as to prolong the life of said structures, may erect and maintain dykes, banks, causeways and sluiceways over, on and across any creek, rivulet or other stream not navigable, and which creek, rivulet or other stream is affected by the rise and fall of the tide, floods or waters of any creek, rivulet or other stream, and secure a right of way for proper ingress and egress thereto, and in connection with such activities, to take, injure and destroy any necessary land or property, in accordance with Article XXVI. Any such change in an existing stream channel under the provisions of this or the preceding section shall first be approved by the **[Department of Forests and Waters]** *Department of Environmental Protection*.

Section 18. Sections 2718, 2721, 2722, 2723, 2724, 2725 and 2726 of the act are repealed.

Section 19. Sections 2729, 2730, 2731 and 2734 of the act are amended to read:

Section 2729. Rebuilding Insufficient Bridge.—Whenever it shall appear to the commissioners that any county bridge is not sufficient for any cause to accommodate the public travel, they may[, **upon the approval of the court of quarter sessions as hereinafter provided,**] erect and construct a new and sufficient bridge to take the place of the insufficient, destroyed or partially destroyed bridge, or may widen and straighten county bridges where deemed necessary to accommodate the public travel. Such new bridge when constructed shall be a county bridge.

Section 2730. Rebuilding Bridges Wholly or Partly Destroyed.—(a) The county commissioners shall rebuild and reconstruct all bridges heretofore built or that may hereafter be erected by the county commissioners, whether constructed under general, special or local laws, whenever any such bridge has been or shall hereafter be blown down, destroyed, partially destroyed or swept away by floods, freshets, ice, storm, fire or other casualty, at the expense of the county.

(b) For the purpose of carrying into effect the provisions of this section, the county commissioners are hereby authorized to borrow any sum of money, in accordance with **[the Municipal Borrowing Law]** *53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing)*.

Section 2731. Closing, Vacating, Abandoning and Removing.—Whenever it shall appear to the commissioners of the county that any county bridge has from any cause become burdensome and is no longer necessary for the accommodation of public travel, they may[, **upon**

the approval of the court of quarter sessions,] close, vacate, abandon and remove said bridge.

Section 2734. Appropriations; Tax Levy and Incurring of Indebtedness.—For the purpose of carrying into effect the provisions of this subsection, the county commissioners are hereby authorized to make appropriations, levy taxes, borrow money and incur indebtedness, in accordance with **[the Municipal Borrowing Law] 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing).**

Section 20. Sections 2751, 2752, 2753 and 2754 of the act are repealed.

Section 21. Sections 2755, 2756, 2757, 2771 and 2772(a) of the act are amended to read:

Section 2755. Assistance in Building Bridges not Entered as County Bridges.—When **[it is found by the report of viewers and by the court] the county commissioners find** that a bridge is necessary and that the erection of such bridge will require more expense than it is reasonable that the one or more adjoining townships, boroughs or cities of the third class should bear, **[or in lieu of such proceedings, with the approval of the Secretary of Highways, when the cost to the county will not exceed fifteen hundred dollars (\$1500)]** and the county commissioners do not deem it advisable to enter such bridge on record as a county bridge but shall consider it proper to assist such township or townships or such city of the third class or such borough in building the same, they may either build such bridge or any portion or portions thereof or furnish such township or townships or city of the third class or borough the whole or part of the money necessary to build it, without entering such bridge on record as a county bridge.

Section 2756. Record to be Kept by County; Maintenance, Repair and Rebuilding by Township or Municipalities.—The county commissioners shall keep a record of all their proceedings in such cases, and such bridges shall be maintained, kept in repair and rebuilt, when necessary, by the respective townships, boroughs or cities of the third class, and the county shall not be liable for the costs of the maintenance, repair or rebuilding of the same or any part of such cost: Provided, however, That **[in case the report of a board of viewers appointed by the court for the purpose, duly approved by the court, shall set forth that the cost of the repair or rebuilding of such bridge is greater than it is reasonable that the said township or townships, borough or city of the third class should bear, then]** it shall be lawful for the county commissioners of the county in which such bridge is located to furnish such township or townships, boroughs or city of the third class either the whole or part of the money necessary to repair or to rebuild such bridge or bridges, as the said board of county commissioners may deem just and proper.

Section 2757. Entering on Record as County Bridge.—Whenever the county commissioners **[of the county]** have heretofore assisted or shall hereafter assist any **[township or borough] municipality** in the building of

the whole or any portion of a bridge and it shall afterwards appear to the commissioners **[and to the court of quarter sessions]** that the care, maintenance and responsibility of said bridge is greater than it is reasonable that the said **[township or borough] municipality** should bear, they may, **with the approval of said court,** enter such bridge upon record as a county bridge, and it shall thereafter be a county bridge the same as if it had originally been so entered on record.

Section 2771. Bridges and Approaches Authorized.—The county commissioners**[, upon the approval of the court of quarter sessions,]** may locate, lay out, open, construct and maintain public bridges across any river or stream, whether such bridge is wholly or partly within any city, borough or township therein, together with such bridge approaches, viaduct or other approaches as the county commissioners may deem necessary or convenient for the purpose of connecting any such bridge with the existing streets or public roads in such cities, boroughs or townships, and to that end may take, enter upon, appropriate property and rights of property of all kinds, whether devoted to a public or private use, for the purposes aforesaid, and for the necessary slopes, piers, walls, abutments, fills and embankments, in the manner and subject to the restrictions and procedure provided in Article XXVI of this act, and may enter upon or over any street, public highway or public road in such cities, boroughs or townships.

Section 2772. Plans and Surveys; **Petition to Quarter Sessions**.—(a) Whenever the county commissioners shall resolve to exercise any of the powers conferred by the preceding section, they shall cause to be prepared plans and surveys showing the location of the proposed bridge and its approaches and the property or rights of property affected thereby, together with any streets or public roads in any city, borough or township proposed to be used in connection therewith**[, and they shall present the same, together with their petition, on behalf of said county, to the court of quarter sessions, praying for authority to locate, lay out, open and construct such bridge].**

* * *

Section 22. Section 2773 of the act is repealed.

Section 23. Section 2774 of the act is amended to read:

Section 2774. Approval of State or Federal Officers, Board or Body; Change in Location.—(a) Where the proposed bridge crosses any navigable stream or other public water or the property rights or property or rights of way of any railroad or other public service corporation, and by reason thereof the approval of any State or Federal officer, board or body is required as to the location and construction of such bridge or its approaches, the county shall be deemed to have full and complete authority to construct such bridge in such other location and in such other manner as may be necessary to comply with the conditions prescribed by such officer, board or body in granting such approval**[: Provided, The] if** county commissioners be of the opinion, and by resolution duly adopted so decide, that the bridge as thus

changed is necessary for the convenience of the traveling public and will accommodate substantially the same traveling public as the bridge would have done if it had been constructed at the location and in the manner originally provided.

[(b) Upon the adoption of any such resolution and prior to the construction of such bridge and the entry upon and taking of property for that purpose, such county, through its county commissioners, shall present its petition to the court of quarter sessions of said county, briefly setting forth the facts as to the obtaining of such approval and the change made in consequence thereof and the adoption of such resolution, together with plans and surveys showing the new location and manner of construction and an estimate showing the cost of the construction of such bridge as thus changed.]

(c) If the proceedings shall appear to be regular, the court shall make an order fixing a time, not less than twenty days thereafter, for the filing of exceptions thereto.

(d) Notice of the time and place of hearing on said exceptions shall be given by advertisement published once a week for two successive weeks in at least two newspapers of general circulation in such county and by handbills posted in conspicuous places along or in the neighborhood of the proposed bridge and its approaches, or otherwise, as the court shall direct, having regard to the circumstances of the cases.

(e) Upon the hearing thereof, the court may, for proper cause shown, disapprove of said petition; otherwise, it shall thereupon make a decree authorizing and empowering the county to contract such bridge in accordance with such new plans and surveys, and thereupon such bridge shall be deemed to have been laid out and opened in accordance with such plans and surveys.]

Section 24. Section 2776 of the act is repealed.

Section 25. Section 2777 of the act is amended to read:

Section 2777. County Authorized to Contract With **[City or Borough] Municipality**.—When such bridge is proposed to be located or erected in any **[city or borough] municipality**, the county may agree that such **[city or borough] municipality** may bear a portion of the cost of the locating, laying out, opening and constructing of such bridge and its approaches and appurtenances, and that the **[city or borough] municipality** may provide the approach therefor and bear the cost of the maintenance of any approach within the respective **[city or borough] municipality**, as shall be agreed upon between any such county and such **[city or borough]**. **All such agreements shall be entered into in writing and at least one executed copy shall be furnished to each county, city and borough becoming a party thereto.] municipality.**

Section 26. Sections 2779, 2780 and 2781 of the act are repealed.

Section 27. Subarticle (d) of Article XXVII of the act is repealed.

Section 28. Sections 2801, 2802 and 2803 of the act are amended to read:

Section 2801. Building or Rebuilding.—Whenever it is necessary to erect a bridge on the boundary line between two counties, either to take the place of an intercounty bridge which has become insufficient for any cause to accommodate public travel or to provide a new bridge where none has previously been, such counties may jointly build or rebuild such bridge, **after first having obtained the approval of the court of quarter sessions in each county**.

Section 2802. Joining With **[City] Municipality**.—When such bridge is on the dividing line between two counties which is also the dividing line between one county and a **[city] municipality** in the other county, and such **[city] municipality** has authority to build or rebuild such bridge or to join with any county therein, said county may join with said **[city] municipality** in the other county in building or rebuilding such bridge. **[In such case, the approval of the court of quarter sessions of the county so joining with a city only shall be required.]**

Section 2803. Cost; Status.—The cost of such bridge shall be paid in such proportions as shall be agreed upon by the two counties or by the county and **[city] municipality** so joining. Such bridge when built shall be an intercounty bridge and be subject to all provisions of existing laws relating to intercounty bridges.

Section 29. Subarticle (f) of Article XXVIII of the act is repealed.

Section 30. Sections 2822, 2823, 2824, 2832, 2833 and 2834 of the act are repealed.

Section 31. Subarticle (i) of Article XXVIII of the act is repealed.

Section 32. Sections 2851, 2852, 2853 and 2855 of the act are amended to read:

Section 2851. **[City] Municipal Bridges Benefiting Neighboring [Townships] Municipalities**.—Whenever different parts of any **[city] municipality** or any part of such **[city] municipality** and any **[township] municipality** bordering thereon are separated therefrom by any intervening valley or ravine, and the county commissioners **[of such county]** shall decide it necessary that a public bridge for the purpose of connecting the territories thus separated be constructed and that such bridge will be of substantial advantage and benefit to the taxable inhabitants of the **[township] municipality** bordering thereon or **[townships] municipalities** adjacent thereto, such county may contract with such **[city] municipality** for the laying out and construction by such **[city] municipality** of such bridge and may pay to the **[city] municipality** such portion of the cost thereof as the county commissioners shall deem reasonable, and shall appropriate money, levy taxes and incur indebtedness therefor.

Section 2852. Municipal Bridges Where County Might Have Built Bridge.—Where, under the provisions of existing laws, a **[city of the third class, a borough or a township of the first class] municipality** is authorized to construct a bridge or viaduct over a river, creek or stream or other place over which the county is authorized to build bridges, and such

municipality is authorized to contract with the county and with railroads, street railways and other companies or parties interested for the building and maintenance of such bridge or viaduct, and for the payment of any damages caused by the location or erection thereof, the county commissioners may[, **with the approval of the court of quarter sessions,**] contract with such [**city, borough or township**] *municipality* for that part or portion of the bridge or viaduct which crosses any of the places hereinbefore mentioned, including the abutments and piers thereof. Such part shall thereafter be maintained as a county bridge. In lieu thereof, the county commissioners may[, **with the approval of the court,**] contract for any part or portion of the whole structure equal to or greater than the part or portion which the county might have built.

Section 2853. Contribution Where County Might Not Have Built Bridge.—When such bridge or viaduct is built by a [**borough or township of the first class**] *municipality* and does not cross any place over which the county is authorized to construct a bridge but crosses merely railroad or railroads and private property, the county commissioners may[, **subject to the approval of the court of quarter sessions,**] contract to pay an amount of money, not exceeding thirty per centum of the entire cost of the proposed bridge or viaduct. Such bridge or viaduct shall thereafter be maintained as a [**borough or township**] *municipal* structure, and the county shall not be liable for any part of the cost of maintenance or repair thereof.

Section 2855. Contracts for Work.—After any such contract has been entered into, the county commissioners, in conjunction with the [**city, borough or township**] *municipality*, shall have prepared plans and specifications of the entire work and shall advertise for bids and award the contract to the lowest responsible bidder. Such contract shall provide that the county shall pay its certain part of such bridge or viaduct directly to the contractor. The contractor shall have a right of action against the county for the part of the contract which the county agrees to pay.

Section 33. Section 2857 of the act is repealed.

Section 34. Sections 2901, 2902 and 2903 of the act are amended to read:

Section 2901. County Roads; Establishment and Maintenance.—(a) The words defined in section 2801 of this act shall be construed to have like meanings when used in this article.

(b) Establishing County Roads. For the purpose of providing public roads, specially constructed, improved and maintained, the county commissioners may[, **upon approval by the court of quarter sessions,**] originally lay out and open any road, and take possession of and exercise control over any existing [**township**] *municipal* road or part thereof, and build and maintain roads as county roads within their respective limits. They may, at any time, straighten, widen, extend and alter any such road or part thereof, and vacate so much thereof as may become unnecessary and useless. Any road so taken over or improved shall thereupon become a county road and be subject to the control and supervision of the county commissioners. It

shall be the duty of the county to keep and maintain county roads established under this act and all other county roads in repair, the expense thereof to be paid by the county in the manner hereinafter provided.

[(b.1) When the county commissioners acquire real property for the county to be used for originally laying out or opening any road, sufficient property may be acquired to enable construction of roads two hundred (200) feet in width exclusive of division strips: Provided, That the limits of width shall not be construed to include the width required for necessary slopes in cuts or fills.]

(c) Acquisition of Rights of Way of Abandoned Railroads. The commissioners of the county may take over any abandoned rights of way or bridge of a railroad company or any part thereof for the purpose of relocating any existing or locating a new county road, and they may purchase such abandoned right of way or bridge or such part thereof, as may be necessary for the relocating or locating of said county road, from the owner thereof, at a fair price[, **to be approved by the court of quarter sessions of the county**].

Whenever any such abandoned right of way or bridge of a railroad company or any part thereof is purchased under the provisions of this section, a county road shall be laid out and located thereon and shall thereafter be constructed, improved and maintained in accordance with law. Any such bridge so taken over shall become a county bridge and shall be maintained, rebuilt and repaired accordingly.

(d) Joint Action by Counties. The provisions of this article may also be exercised jointly by adjoining counties as to roads extending along and adjacent to county lines and from one adjoining county into another.

The procedure and jurisdiction in each county in such cases shall be the same as to any portion of such road lying within its limits, except that the petition, plans and surveys of such road shall describe and exhibit every portion of such road within the limits of such county and every portion thereof extending along the line of or into an adjoining county. The several portions thereof lying within limits of each county shall be treated in all proceedings as one continuous road.

(e) To Be County Road as Soon as so Decreed. All roads and parts thereof heretofore and hereafter decreed by the court under this or any former acts of Assembly to be a county road shall be subject to the control and supervision of the county commissioners. **[Upon the decree or order making an existing township road or part thereof a county road, the same shall immediately be kept in repair, made, constructed and maintained by the county and the township relieved of any duty thereto as a township road.]**

(f) Maintenance and Repair of County Roads. The commissioners shall have prepared plans and estimates, as often as required, for the repair and maintenance of all roads which the county is required by law to maintain and repair. They may invite proposals for maintaining and repairing such roads or parts thereof in accordance with such plans and estimates and award the

contract therefor in like manner as contracts for new improvements, or they may make the necessary repairs themselves. For the purpose of making such repairs, the commissioners may employ or appoint the proper persons and buy the necessary materials and buy or rent the necessary machinery. The county may also lease any of its machinery to any political subdivision within the county, upon such terms and conditions as may be agreed upon.

(g) Annual Tax. The commissioners may levy, assess and collect an annual tax, of not more than two mills upon the dollar, upon all real and personal property within said county taxable for county purposes for the purpose of acquiring and securing a fund from which to pay all costs, damages and expenses required in the locating, opening, building, improving, widening, straightening, extending, maintaining, repairing or vacating of roads or parts thereof covered by the provisions of this section, and for the taking and use of such land as may be necessary in constructing and maintaining proper slopes, embankments, fills and culverts. The moneys so raised shall not be expended for any other purposes than those named in this section, except for the maintenance, repair, construction and reconstruction of any county bridge or bridges, whether or not located on a county road or roads. All warrants for the payment of any portion of the money raised for the purposes aforesaid shall be issued, in the manner provided by this act, upon estimates which shall be made from time to time by the persons charged with such duty. The amount and time within which the same shall be paid shall be fixed and determined in the contract made for the public work.

(h) Borrowing Money; Bond Issue and Tax Levy. The county commissioners may borrow money and secure any indebtedness created by them for the purposes authorized under this section **[by issuing bonds in accordance with the provisions of the Municipal Borrowing Law]**.

(i) Changing Part of Road Without View. Whenever the board of commissioners deem it advisable to construct or alter any part of any road under their supervision and can agree with the property owners affected by such change as to damages, they may, upon payment of the damages agreed upon, construct or alter such part of such public road as contemplated in such agreement without the formality of a view. **[This authority shall not extend to any construction or alteration, the costs and expenses of which to such county, including damages, shall exceed one thousand dollars (\$1000). A petition setting forth the facts, accompanied by a map or draft of such proposed change, shall be presented to the court of quarter sessions for approval before such actual change is made, whereupon the new location thus approved by the court shall be the public road to all intents and purposes and the old location shall be vacated.]**

(j) Assessment of Benefits. Whenever, in the county, any road or highway shall be originally located, laid out or constructed or relocated, opened, straightened, widened, extended or altered, or any part thereof vacated, the viewers appointed to assess damages for taking, injuring or destroying property, after having determined the amount of damages sustained, shall

assess the whole or such part of such damages as may be represented by benefits upon the properties abutting on and benefited by such improvements. The remaining part of such damages, if any, not so assessed against the abutting properties, shall be paid by the county. The total assessments for benefits shall in no case exceed the total damages awarded and agreed upon.

The viewers shall in such cases file their report showing the balance struck between the damages awarded and the benefits assessed.

(k) **Interest on Benefits Assessed.** All assessments for benefits shall bear interest at the expiration of thirty days after they have been finally determined and fixed and shall be payable to the treasurer of the county.

(l) **Liens for Benefits Assessed.** All liens for the assessment of benefits pursuant to the provisions of the two preceding subsections shall be filed, revived and collected in accordance with law.

No appeal taken shall prevent the filing of liens by the county for any assessment made by virtue of the viewers' report, but upon the final determination of the issue the court may make such order as to any lien filed that shall appear right and proper.

(m) **Sidewalks Along County Roads.** Whenever considered necessary for the safety and accommodation of the public, the county commissioners may locate, construct and maintain sidewalks along county roads. The cost of the construction and maintenance of said sidewalks shall be paid by the county.

(n) **Lights Along County Roads.** Whenever considered necessary for the safety and convenience of the traveling public, the county commissioners may supply and equip any county road or parts thereof with lights of such kind as they shall deem necessary. The commissioners may for this purpose contract with any individual or with any municipal or private corporation. The cost of the construction may and the cost of maintenance of the said lights shall be paid by the county.

Section 2902. System of Main Thoroughfares in County.—(a) **Adoption of System.** The county commissioners may, in the manner provided by this section, cause to be laid out, surveyed and adopted a system of main thoroughfares which said board shall adjudge the proper roads to be established and specially constructed and improved. In adopting such system, the commissioners shall consider the population and needs of all parts of the county and make an equitable distribution of the roads to be specially constructed, located and improved by the said county. They shall cause a plan or plans to be made showing said system of proposed roads, the relation of the proposed roads to existing public roads which connect therewith or are to be supplied thereby, the names of abutting property owners, and also roads which already have been improved by the county. Upon approval of said plan or plans by the commissioners, they shall cause said approval to be engrossed upon said plans and certified by at least two commissioners. Said plans shall be filed for public inspection in the office of the commissioners and recorded in the office of the recorder of deeds in a book to be provided for the purpose.

No part of the proposed roads of said system shall be an easement upon private property or in any manner interfere with the use thereof until established as a public road by the action of the court of quarter sessions.

(b) Improvement of [**Borough and Township**] *Municipal* Roads. Whenever such system of main thoroughfares has been adopted or when the adoption thereof is contemplated within two years after the commencement of such improvement, the commissioners may[, **upon approval by the court of quarter sessions as hereinafter provided,**] take exclusive control of and improve any road or section thereof located either wholly or in part in any [**borough or township**] *municipality*, whether existing by their authority or laid out in whole or in part by virtue of this act or otherwise. For that purpose, they may originally locate, lay out, establish in whole or in part, relocate, straighten, widen, extend, alter and open roads, and construct and improve the same, and vacate so much of any roads as may be thereby rendered unnecessary and useless. Any road as established or altered, constructed and improved under the provisions of this subsection shall, by ordinance enacted by each [**borough or by resolution adopted by the commission or supervisors of each township**] *municipality* through which such road shall pass, become [**borough or township**] *municipal* roads, and the duty of maintaining and keeping the same in repair shall devolve upon each respective [**township or borough**] *municipality* through or into which the same extends.

(c) Plan of System to Be Followed; Variations. After such plans have been adopted and recorded pursuant to law, all applications under the preceding subsection [**to the court of quarter sessions**] shall be restricted and shall relate only to the establishing, opening, construction and improvement of the proposed roads of said system or parts thereof and the vacation of roads supplied by the portion opened and improved. The commissioners[, **upon approval by the court of quarter sessions as hereinafter provided,**] may relocate, straighten, widen, extend, alter and open, construct and improve the proposed roads as laid out, surveyed, marked and shown upon the plans of said system, or to originally locate, lay out and establish, construct and improve roads which substantially supply said system or parts thereof which, although not parts of said system, are deemed by the said court to be main thoroughfares of sufficient importance to be improved by the county and to be added to said plan, and in such case to vacate so much of the roads of said system and of roads already established as may be rendered unnecessary by the changes or by an entirely new location.

(d) Improvement of Roads Not Part of System on Contribution From Parties Interested. The commissioners may also originally locate, lay out and establish in whole or in part, relocate, straighten, widen, extend, alter and open, construct and improve roads not parts of said system nor deemed main thoroughfares, upon parties interested therein paying or securing to be paid, [**in a manner to be approved by the court of quarter sessions,**] such

proportion of the cost of the original construction and improvement as the commissioners may deem just, which shall not be less than one-fourth of such cost in any case.

(e) **Annual Tax.** The commissioners may levy, assess and collect an annual tax, of not more than two mills upon the dollar, upon all real and personal property within the county taxable for county purposes, for the purpose of acquiring and securing a fund from which to pay all costs, damages and expenses required in locating, opening, widening, straightening, extending, building, improving, maintaining, repairing or vacating of the roads or parts thereof improved under the provisions of this section, and for the taking and using of such land as may be made necessary in constructing and maintaining proper slopes, embankments, fills and culverts. The moneys so raised shall not be expended for any other purposes than those named in this subsection. All warrants for the payment of any portion of the money raised for the purposes aforesaid shall be issued, in the manner provided by this act, upon estimates which shall be made from time to time by the person charged with such duty, and the amount and time within which the same shall be paid shall be fixed and determined in the contract made for the public work herein authorized.

(f) **Borrowing Money and Bond Issue.** Any county may borrow money and secure such indebtedness [**by issuing bonds in accordance with the provisions of the Municipal Borrowing Law**] for the purpose of building and improving the roads or any part thereof constructed under the provisions of this section.

Section 2903. **Providing Roads, Tunnels, Subways and Underground Roads.**—(a) Whenever the county commissioners shall deem it expedient so to do [**and upon the approval thereof by the court of quarter sessions as hereinafter provided**], they may cause to be purchased, located, constructed, operated and maintained roads, tunnels, subways or underground roads anywhere within the county, either wholly or partly within the boundaries of any city, borough or township. Any road, tunnel, subway or underground road purchased or constructed under the provisions of this section shall forever thereafter be a county road, tunnel, subway or underground road, and the duty of maintaining and keeping the same in repair shall devolve upon the county. The expense thereof shall be paid by the county as hereinafter provided.

(b) **Contracts or Lease for Special Use of Improvements.** The commissioners[, **subject to the approval of the court of quarter sessions,**] may make a contract or lease with any street railway or transportation company, its successors and assigns, for the concurrent use of such a portion of said road, tunnel or subway or underground road, as shall not substantially impair or restrict the public use and enjoyment thereof, upon such terms and conditions as shall be agreed upon. [**No such contract or lease for the concurrent use of a portion of such improvement shall be for a longer term or period than twenty years. Any such contract or lease shall be**

made in accordance with applicable provisions of the Public Utility Law.]

(c) **Taking Street or Other Property of [City or Borough] Municipality.** Should the commissioners of the county deem it necessary or advisable to enter upon or appropriate any road or property of any city or borough in the county, or take any other action affecting the property rights or authority of such [city or borough] *municipality*, for the purpose of constructing or maintaining a road, tunnel, subway or underground road, or in connection with the improvement of any of them, which has been or is about to be purchased by the county or otherwise, the consent thereto of such [city or borough] *municipality* by ordinance shall be obtained before the actual entering in or upon or the appropriation of such road or property. After such entry and appropriation, the county shall be liable and charged with the supervision, control and maintenance of said roads and properties, or so much thereof as is taken and used for the purpose of constructing and maintaining such road, tunnel, subway or underground road, or in connection with the improvement of any of them, purchased or to be purchased as aforesaid.

(d) **Annual Tax Levy.** The commissioners may levy, assess and collect an annual tax, of not more than two mills on the dollar, on all real and personal property within the county taxable for county purposes for the purpose of acquiring and securing a fund from which to pay all costs, damages and expenses required in the purchasing, improving, locating, opening, constructing, maintaining and repairing roads, tunnels, subways and underground roads, purchased or constructed under the provisions of this section, and the taking and using of such land as may be made necessary in constructing the same and in maintaining proper slopes, embankments, approaches and termini for said roads, tunnels, subways and underground roads. The money so raised shall not be used or expended for any other purposes than those named in this subsection. All warrants for the payment of any portion of the money raised for the purposes aforesaid shall be issued, in the manner provided by this act, upon estimates which shall be made from time to time by the person charged with such duty. The amount and time within which the same shall be paid shall be fixed and determined in the contract made for the public work herein authorized.

(e) **Borrowing Money and Bond Issue.** The county may borrow money and incur indebtedness **[in accordance with the provisions of the Municipal Borrowing Law,]** to an amount not exceeding the constitutional limitations, for the purchase and improvement or construction of such roads, tunnels, subways and underground roads.

Section 35. Section 2904 of the act is repealed.

Section 36. Sections 2907, 2909, 2912 and 2931 heading and (a) of the act are amended to read:

Section 2907. **Penalties for Injuring Drains, Etc.—**If any person shall stop, fill up or injure any such drain, channel or ditch, or the inlets or outlets

thereto, or shall divert or change the course thereof, without any authority of the county, or shall be responsible for the same, and does not eliminate or remove such obstruction of or interference with said drains, channels, ditches, etc., upon ten (10) days notice in writing from the county so to do, then and in that case such person shall[, **upon summary conviction in an action before any magistrate, alderman or justice of the peace, be sentenced to pay a fine or penalty of ten dollars (\$10) for every such offense together with the costs of prosecution, and such fines as shall be imposed shall be paid to the treasurer of the proper county**] *be convicted of a summary offense*. Every day's violation, after written notice has been received by the proper person, shall constitute a separate offense: Provided, however, That nothing herein contained shall limit or deprive the said counties of any other remedy which they may now or in the future have, in law or equity.

Section 2909. Vacation as County Roads.—Upon petition of the county commissioners, the court of [**quarter sessions**] *common pleas* may vacate as a county road any portions of any abandoned or condemned [**turnpike**] road, or any portions of any [**turnpike**] road purchased by the county, or of any road, the permanent location or improvement whereof has been ordered or made under this or former acts relating to county roads. All portions of such roads so vacated shall become and be township roads, if located within a township, or shall become and be borough or city roads, if located within a borough or city. Written notice of the contents of said petition and the time when the same will be presented to the court shall be given by the county commissioners to the supervisors or commissioners of the township or townships or to the council of the borough or city through which said road passes, at least ten days before the date of presenting the same. At the time said petition is presented, the court may fix a time for hearing in open court, or may refer the matter to an examiner to take testimony and report his findings to the court at such time as the court shall direct. At any hearing in open court or before an examiner appointed by the court, all parties in interest may appear and be heard. After such hearing, the court, if it shall find that the conditions prescribed by this act have been complied with, may grant the prayer of the petitioners and make a decree accordingly or make such order in the premises as it deems right and just. No order of vacation shall be made until the township, borough or city affected shall have consented thereto by an ordinance or resolution certified to the court.

Section 2912. Laying Out; Altering; Vacating.—Roads forming or intended to form a continuous highway from one county to another, which cross a river, creek or rivulet forming a boundary line between said counties, may be laid out or altered or vacated in the manner provided in the case of other roads[, **except that the court of quarter sessions of each county shall appoint three viewers and that a report as aforesaid shall be made to each court respectively, and that each court shall otherwise have and exercise concurrent jurisdiction therein**].

Section 2931. Improvement on Order of Court of **[Quarter Sessions] Common Pleas**.—(a) In all cases in which it shall be found impossible to enter into such contracts or agreements, or where either the city or borough and the township or the county in which such township is situated shall refuse to enter into such contract or agreement, either the municipality or the county or township may present its petition to the court of **[quarter sessions] common pleas** of either county setting forth the facts and circumstances, including the condition of the road from which the necessity and desirability for the grading, curbing, macadamizing or paving of the roadway appears, and the estimated cost thereof, and that the terms of such contract cannot be agreed upon by the municipality and county or township, or either or any of them, or that either such municipality or the county or township or any of them refuses to enter into such contract.

* * *

Section 37. Section 2932 of the act is repealed.

Section 38. Sections 2940(a) and 2942 of the act are amended to read:

Section 2940. Laying Out Detours When County Road is Closed.—(a) Except in the case of emergency wherein the safety of the public would be endangered, no county road shall be closed to vehicular traffic except upon order of the county commissioners, nor for a longer period than is necessary for the purpose for which such order is issued. Except for temporary emergency police measures wherein the safety of the public would be endangered if it were not temporarily closed, no county road shall be closed to vehicular traffic when the same has been designated as a detour by the Department of **[Highways of the Commonwealth] Transportation** unless the written consent of the Department of **[Highways] Transportation** has first been obtained, or unless the county commissioners having jurisdiction over said road shall, by resolution, declare such closing necessary for the protection of the public safety.

* * *

Section 2942. Fines and Damages.—(a) Any person who shall wilfully remove, deface, destroy or disregard any barricade, light, danger sign, detour sign or warning of any character whatsoever, erected or placed under authority of section 2940 of this act, or who shall drive on, over or across any road which has been closed by proper authority, shall, **upon conviction thereof in a summary proceeding before a magistrate, alderman or justice of the peace, be sentenced to pay a fine of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) and the cost of prosecution, and in default of the payment thereof, shall be imprisoned one day for each dollar of fine and costs unpaid} be convicted of a summary offense**: Provided, however, That persons who have no outlet due to the closing of a road may drive on, over or across such road, with the consent in writing of and subject to such conditions as may be prescribed by the county commissioners responsible for the closing, or their agents or contractors, without being subject to the fines imposed by this section.

(b) In addition to the fines herein provided, the county commissioners responsible for the maintenance of a road which has been closed to vehicular traffic, or their agents or contractors, may, in an action at law, recover damages from any person or persons who have damaged a road when it is closed to vehicular traffic.

(c) All fines collected under the provisions of this section shall be paid **[by the officer receiving the same to the treasurer of the boroughs, towns or townships in which the offenses shall have been committed]** *to the county treasurer for the general fund use of the county.*

Section 39. Sections 2950, 2951, 2952 and 2953 of the act are repealed.

Section 40. Sections 2954(b) and 3053 of the act are amended to read:

Section 2954. Penalty for Destroying, Et Cetera, Index Boards.—* * *

(b) Any person violating the provisions of this section shall[, **upon summary conviction, be sentenced to pay a fine of not less than ten dollars (\$10) nor more than twenty-five dollars (\$25) with all costs of prosecution, together with the value of such sign so destroyed, removed or defaced. In default of payment of said fine, costs and expenses, such person shall undergo an imprisonment for a period of not less than five (5) nor more than sixty (60) days]** *be convicted of a summary offense and, in addition to other fines and penalties provided by law, may be required to provide reimbursement for the value of such sign so destroyed.*

Section 3053. Sale of Unused Grounds.—If, for a period of five years, no public use of said real estate as contemplated by the grant to the county is made, the county commissioners shall have power to sell such real estate **[on petition to the court of common pleas, as provided by law, for the sale of county property]**.

Section 41. Section 3101-B(b) of the act, added December 22, 1993 (P.L.529, No.77), is amended to read:

Section 3101-B. Findings and Declaration of Policy.—* * *

(b) It is hereby declared to be the policy of this Commonwealth to promote the health, welfare and quality of life of the citizens of southwestern Pennsylvania *by ensuring the continued availability of the region's assets and thereby* to enhance **[economic development and]** employment *and tax relief* in the region by authorizing the creation of the Allegheny Regional Asset District as a special purpose areawide unit of government.

Section 42. Section 3171-B of the act, amended or added December 22, 1993 (P.L.529, No.77) and October 30, 2000 (P.L.616, No. 85), is amended to read:

Section 3171-B. Tax Relief *and Use of Disbursements*.—(a) (1) The county and the city shall utilize the disbursements received from the State Treasurer under section 3157-B(b) in the first full calendar year in which the disbursements are received for the reduction of local taxes.

(2) Effective January 1 of the first full calendar year in which disbursements are received pursuant to section 3157-B(b), the county and the city shall repeal any tax imposed upon personal property.

(3) Effective January 1 of the first full calendar year in which disbursements are received pursuant to section 3157-B(b), the city shall reduce to an amount not to exceed five per centum (5%) the tax on admissions to places of amusement, athletic events and the like and on motion picture theaters.

(3.1) Notwithstanding the provisions of any other act, the city shall use two-thirds of the nonresident sports facility usage fee collected pursuant to the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act," to reduce the amount of tax on admissions to places of amusement that are involved with performing arts for which the net proceeds therefrom inure to the benefit of an institution of purely public charity. In reducing the rate of the tax pursuant to this provision, the city shall not establish a rate that exceeds two and one-half per centum (2.5%). If the city cannot impose and collect a nonresident sports facility usage fee pursuant to "The Local Tax Enabling Act," the city shall not establish a rate that exceeds five per centum (5%).

(4) The county and the city shall utilize all or a portion of revenues remaining from disbursements received pursuant to section 3157-B(b) after reducing taxes as provided by clauses (1) and (2) for the implementation of one of the following:

(i) programs under the act of December 13, 1988 (P.L.1190, No.146), known as the "First and Second Class County Property Tax Relief Act";

(ii) a program for property tax rebate or rent rebate in lieu of property taxes modeled by the county or city after the act of March 11, 1971 (P.L.104, No.3), known as the "Senior Citizens Rebate and Assistance Act," for longtime owner-occupants of personal residences. Property eligible for tax relief under this clause shall be limited to a primary personal residence owned by a single person age 62 or older or by married persons if either spouse is 62 years of age or older. Tax relief provided pursuant to this clause shall be limited to persons whose income as defined under the act of March 11, 1971 (P.L.104, No.3), known as the "Senior Citizens Rebate and Assistance Act," does not exceed twenty-five thousand dollars (\$25,000); or

(iii) a program for property tax rebate or rent rebate in lieu of property taxes modeled by the county or city after the "Senior Citizens Rebate and Assistance Act" for longtime owner-occupants of personal residences. Property eligible for tax relief under this clause shall be limited to a primary personal residence owned by a single person age 60 or older or by married persons if either spouse is 60 years of age or older. Tax relief provided pursuant to this clause shall be limited to persons whose income as defined under the "Senior Citizens Rebate and Assistance Act" does not exceed thirty thousand dollars (\$30,000).

For purposes of this clause, "longtime owner-occupant" shall mean any person who for at least ten continuous years has owned and has occupied a dwelling place within the county as a principal residence and domicile, or any person who for at least five years has owned and occupied a dwelling

within the county as a principal residence and domicile if that person received assistance in the acquisition of the property as part of a government or nonprofit housing program.

(5) The county may establish installment payment programs for payment of the property taxes by taxpayers who participate in county programs *for real property tax relief as provided by subsection (a)(4)*.¹

(b) (1) Municipalities other than the county and the city shall utilize at least two-thirds of the disbursements received under section 3157-B(b) [**in the first full calendar year in which the disbursements are received**] for the reduction of local taxes.

(2) Municipalities other than the county and the city shall utilize all or a portion of disbursements received for the purpose of reducing local taxes for the implementation of programs for real property tax relief. *Such programs may consist of a program as provided by subsection (a)(4)[.], a program for property tax rebate or rent rebate in lieu of property taxes modeled after the "Senior Citizens Rebate and Assistance Act," a reduction in the millage rate across all properties or a combination of the foregoing.*

(3) Municipalities in counties of the second class, other than the county and the city, which do not impose a tax upon personal property on the effective date of this amendatory act are prohibited from imposing such a tax thereafter.

(c) No municipality or city may use disbursements received for the purpose of securing the bonds of a municipal authority or may allow disbursements received to be controlled or distributed by an entity other than the governing body of the municipality.

Section 43. Section 3173-B of the act is repealed.

Section 44. The addition of section 3171-B(a)(3.1) of the act shall apply to taxes levied for tax years commencing on or after January 1, 2006, upon enactment of a nonresident sports facility usage fee under the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

Section 45. This act shall take effect in 60 days.

APPROVED—The 30th day of November, A.D. 2004.

EDWARD G. RENDELL

¹"in county programs pursuant to clause (4). of programs for real property tax relief as provided by subsection (a)(4)." in enrolled bill.