

No. 274

AN ACT

HB 2044

Amending the act of February 1, 1966 (1965 P.L.1656, No.581), entitled "An act concerning boroughs, and revising, amending and consolidating the law relating to boroughs," authorizing an additional levy with court approval for general purposes.

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

Section 1. The introductory clause of the first paragraph of section 1302, act of February 1, 1966 (1965 P.L.1656, No.581), known as "The Borough Code," amended July 17, 1970 (P.L.490, No.169), is amended to read:

Section 1302. Tax Levy.—The council of the borough shall have power, by ordinance, to levy and collect annually, a tax, not exceeding thirty mills for general borough purposes, *unless the council by majority action shall, upon due cause shown by resolution, petition the court of common pleas, in which case the court may order a rate of not more than five mills additional to be levied* and in addition thereto any of the following taxes:

* * *

Section 2. Subsection (a) and the first paragraph of subsection (d) of section 1402, and sections 1403 and 1405 of the act, amended October 9, 1967 (P.L.380, No.171), are amended to read:

Section 1402. Regulation of Contracts.—(a) All contracts or purchases in excess of **[one thousand five hundred dollars (\$1,500)] two thousand dollars (\$2,000)**, except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder after due notice in one newspaper of general circulation in the borough, at least three times at intervals of not less than three days where daily newspapers of general circulation are available for such publication, in case of weekly newspapers, such notice once a week for two successive weeks. The first advertisement shall be published not less than ten days prior to the date fixed for the opening of bids. The amount of the contract shall in all cases, whether of straight sale price, conditional sale, bailment lease, or otherwise, be the entire amount which the borough pays to the successful bidder or his assigns 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. In awarding bids, council shall have the right to take into consideration such other factors as the availability, cost and quality of service.

* * *

(d) The contracts or purchases made by council, involving an expenditure of over **[one thousand five hundred dollars (\$1,500)] two thousand dollars (\$2,000)**, which shall not require advertising or bidding as hereinbefore provided, are as follows:

* * *

Section 1403. Evasion of Advertising Requirements.—No member or members of council shall evade the provisions of section 1402 hereof as to advertising for bids, by purchasing or contracting for services and personal properties piecemeal for the purpose of obtaining prices under **[one thousand five hundred dollars (\$1,500)] two thousand dollars (\$2,000)** upon transactions, which transactions should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than **[one thousand five hundred dollars (\$1,500)] two thousand dollars (\$2,000)**. This provision is intended to make unlawful the evading of advertising requirements by making a series of purchases or contracts, each for less than the advertising requirement price, or by making several simultaneous purchases or contracts, each below said price, when, in either case, the transactions involved should have been made as one transaction for one price. Any members of council who so vote in violation of this provision and who know that the transaction upon which they so vote is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids, shall be jointly and severally subject to surcharge for ten percent of the full amount of the contract or purchase. Whenever it shall appear that a member of council may have voted in violation of this section but the purchase or contract on which he so voted was not approved by council, this section shall be inapplicable.

Section 1405. Separate Bids for Plumbing, Heating, Ventilating and Electrical Work.—In the preparation for the erection, construction and alteration of any public building, when the entire cost of such work shall exceed **[one thousand five hundred dollars (\$1,500)] two thousand dollars (\$2,000)**, the architect, engineer, or other person preparing such specifications may, if so requested by the borough council, prepare separate specifications for the plumbing, heating, ventilating and electrical work. The person or persons authorized to enter into contracts for the erection, construction or alteration of such public buildings may, if such separate specifications shall have been proposed, receive separate bids upon each of the said branches of work and shall thereupon award the contract for the same to the lowest responsible bidder for each of said branches.

Section 3. Any additional tax for general borough purposes levied with the approval of the court of quarter sessions or the court of common pleas prior to this amendatory act are hereby validated.

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

APPROVED—The 2nd day of December, A. D. 1976.

MILTON J. SHAPP