

## No. 1995-13

## AN ACT

## HB 436

Amending the act of June 24, 1931 (P.L.1206, No.331), entitled "An act concerning townships of the first class; amending, revising, consolidating, and changing the law relating thereto," further providing for the disposal of personal property and for general regulations concerning contracts.

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

Section 1. Section 1501 of the act of June 24, 1931 (P.L.1206, No.331), known as The First Class Township Code, reenacted and amended May 27, 1949 (P.L.1955, No.569) and amended December 14, 1989 (P.L.624, No.72), is amended to read:

Section 1501. Suits; Property.—Townships of the first class may—

I. Sue and be sued.

II. Purchase, acquire by gift, or otherwise, hold, lease, let and convey, by sale or lease, such real and personal property as shall be deemed to be to the best interest of the township: Provided, That no real estate owned by the township shall be sold for a consideration in excess of one thousand five hundred dollars except to the highest bidder after due notice by advertisement for bids or advertisement of a public auction in one newspaper of general circulation in the township. Such advertisement shall be published once not less than ten days prior to the date fixed for the opening of bids or public auction, and such date for opening bids or public auction shall be announced in such advertisement. The **[acceptance] award of [bids] contracts** shall be made only by public announcement at a regular or special meeting of the board of township commissioners or at the public auction. All bids shall be accepted on the condition that payment of the purchase price in full shall be made within sixty days of the acceptance of bids.

The board of township commissioners shall have the authority to reject all bids if such bids are deemed to be less than the fair market value of the real property. In the case of a public auction, the board of township commissioners may establish a minimum bid based on the fair market value of the real property.

Except as otherwise hereinafter provided in the case of personal property of an estimated **[sale] fair market** value of less than **[two hundred dollars] one thousand dollars**, no township personal property shall be disposed of, by sale or otherwise, except upon approval of the board of township commissioners, by ordinance or resolution. In cases where the board of township commissioners shall approve a sale of such property, it shall estimate the **[sale] fair market** value of the entire lot to be disposed of. If the board of township commissioners shall estimate the **[sale] fair market** value

to be [two hundred dollars] *one thousand dollars* or more, the entire lot shall be advertised for sale once, in at least one newspaper of general circulation in the township, not less than ten days prior to the date fixed for the opening of bids or public auction, and such date of opening of bids or public auction shall be announced in such advertisement, and sale of the property so advertised shall be made to the best responsible bidder. *The board of township commissioners may reject any bids received if the bids are believed to be less than the fair market value of the property.* The board of township commissioners shall [have authority], by resolution, [to] adopt a procedure for the sale of surplus personal property, *either individual items or lots of items*, of an estimated [sale] *fair market* value of less than [two hundred dollars] *one thousand dollars* and the approval of the board of township commissioners shall not be required for any individual sale that shall be made in conformity to such procedure.

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

The provisions of this clause shall not prohibit the sale or exchange of township property to public utilities.

The provisions of this clause requiring advertising for bids or sale at public auction and sale to the highest bidder shall not apply where township real or personal property is to be sold to a county, city, borough, town, township, institution district, school district, volunteer fire company, volunteer ambulance service or volunteer rescue squad located within the township, or municipal authority pursuant to the Municipality Authorities Act of 1945, or to a nonprofit corporation engaged in community industrial development or where real property is to be sold to a person for his exclusive use in an industrial development program or where real property is to be sold to a nonprofit corporation organized as a public library, or where real property is to be sold to a nonprofit medical service corporation as authorized by clause LXXII of section 1502, or where real property is to be sold to a nonprofit housing corporation as authorized by clause LXXIII of section 1502. When real property is to be sold to a nonprofit corporation organized as a public library or to a nonprofit medical service corporation or to a nonprofit housing corporation the board of township commissioners may elect to accept such nominal consideration for such sale as it shall deem appropriate. Real property sold pursuant to this clause to a volunteer fire company, volunteer ambulance service or volunteer rescue squad, nonprofit medical service corporation or to a nonprofit housing corporation shall be subject to the condition that when the property is not used for the purposes of the company, service, squad or the corporation the property shall revert to the township.

Any officer who sells and each officer who votes in favor of selling any township property, either real or personal, without the provisions of this section having been complied with, shall be subject to surcharge in the amount of any loss sustained by the township by reason of such sale.

Section 2. Section 1802(a) and (b) of the act, amended June 30, 1978 (P.L.560, No.95) and July 10, 1990 (P.L.389, No.92), are amended to read:

Section 1802. General Regulations Concerning Contracts.—(a) All contracts or purchases made by any township, involving the expenditure of over ten thousand dollars, except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder, shall be in writing, and shall be made only after notice by the secretary, published, in one newspaper of general circulation, published or circulating in the county in which the township is situated, at least two times at intervals of not less than three days where daily newspapers of general circulation are employed for such publication, or in case weekly newspapers are employed then the notice shall be published once a week for two successive weeks. The first advertisement shall be published not more than forty-five days and the second advertisement not less than ten days prior to the date fixed for the opening of bids. Advertisements for contracts or purchases shall also be posted in a conspicuous place within the township. *Advertisements for contracts or purchases shall contain the date, time and location for opening of bids.* All plans and specifications shall be on file at least ten days in advance of opening 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 township 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.

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(b) (1) In every instance in which any contract for any public work, construction, materials, supplies, or other matters or things for any township shall be awarded upon competitive bids, it shall be the duty of the authorities authorizing the same to award said contract to the lowest responsible bidder. Any published notice for bids shall contain full plans and specifications, or refer to the places where copies thereof can be obtained, and give the time and place of a public meeting of a committee, appointed by the township commissioners or an open meeting of the township commissioners, at which committee or commissioners meeting, bids shall be publicly opened and read, and if it is an open meeting of the township commissioners, the contract may be awarded. If, through lack of a quorum or other reason, no meeting shall be held at such time and place, notice of the same kind shall be repeated once at least six days before the meeting of the subsequent time and place fixed, and the foregoing provisions as to bids shall apply. The same course shall be pursued until a meeting of a committee or the commissioners shall actually be held for receiving and opening bids.

(2) *Notwithstanding clause (1), the board of township commissioners may direct that a committee of the board, a member of the board or a member of the township staff receive, open and review bids during normal business hours and forward the information to the board of township*

*commissioners for subsequent award at a public meeting. Bidders shall be notified and other interested parties, upon request, shall be notified of the date, time and location of the opening of bids and may be present when the bids are opened.*

(3) Any contract made in violation of the provisions [hereof] of this section shall be void. But nothing [herein] contained in this section shall prevent the making of contracts for governmental services for a period exceeding one year, but any contract so made shall be executory only for the amounts agreed to be paid for such services to be rendered in succeeding fiscal years: Provided, That if, prior to the letting of any contract, taxpayers of the township, whose property valuation as assessed for taxable purposes within the township shall amount to sixty per centum or over of the total property valuation as assessed for taxable purposes within the township, shall sign and file, with the township secretary of the board, a written protest against such contemplated contract, then such contract shall not be let.

(4) Every contract for the construction, reconstruction, repair, improvement or maintenance of public works shall contain a provision that any steel products used or supplied in the performance of the contract or any subcontracts thereunder shall be from steel made in the United States. The provisions of this act shall be construed in a manner consistent with the act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act."

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Section 3. This act shall take effect in 60 days.

APPROVED—The 26th day of June, A.D. 1995.

THOMAS J. RIDGE