

No. 85

AN ACT

To further amend the act, approved the first day of May, one thousand nine hundred thirty-three (Pamphlet Laws 103), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," by further defining, clarifying, adding to, and otherwise changing the laws relating to the affairs of townships.

"The Second Class Township Code."

Sections 420 and 515, act of May 1, 1933, P. L. 103, as last amended by act of May 20, 1949, P. L. 1562, further amended.

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

Section 1. Sections 420 and 515 of the act, approved the first day of May, one thousand nine hundred thirty-three (Pamphlet Laws 103), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," as last amended by the act, approved the twentieth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1562), are hereby further amended to read as follows:

Section 420. Supervisors.—If the electors of any township shall fail to choose a supervisor, or if any person elected to such office shall neglect or refuse to serve therein, or if a vacancy shall occur in the office by death, resignation, removal from the township, or otherwise, the two remaining supervisors may appoint a successor [to] *and upon their failure to make such appointment within thirty days after the vacancy occurs, the court of quarter sessions shall appoint a successor, upon the presentation of a petition signed by a supervisor and not less than five registered electors. In either case, the successor so appointed shall hold the office until the first Monday of January succeeding the first municipal election occurring at least sixty days after the office became vacant, at which election a supervisor shall be elected for the unexpired term. When a vacancy is so filled [the supervisors] by the two remaining supervisors they shall, within fifteen days thereafter, certify such appointment to the clerk of the court of quarter sessions.*

[If the two remaining supervisors, in the event of a vacancy as aforesaid, shall be unable to agree on such appointment for a period of thirty days after such vacancy occurs, the court of quarter sessions shall, upon the presentation of a petition signed by a supervisor and by not less than five registered electors, appoint a person to hold such office for the unexpired term.]

Section 515. Compensation of Supervisors.—Supervisors shall receive from the general township fund, as compensation, not less than four dollars nor more than

six dollars for each meeting which they attend. The amount of the compensation for attending meetings shall be determined by the township auditors. The township auditors shall also allow to the supervisors reasonable compensation for making a semi-annual inspection of the roads and bridges. The compensation of supervisors, when acting as superintendents, roadmasters or laborers, shall be fixed by the township auditors either per hour, per day, per week, semi-monthly or monthly, which compensation shall not exceed compensation paid in the locality for similar services, and such other reasonable compensation for the use of [vehicular equipment] *a passenger car, or a two-axled four-wheeled motor truck having a chassis weight of less than two thousand pounds and a maximum gross weight of five thousand pounds*, when required and actually used for the transportation of road and bridge laborers and their hand tools, as the auditors shall determine and approve; but no supervisor shall receive compensation as a superintendent or roadmaster for any day he receives compensation for attending a meeting of supervisors, unless such meeting is held during the nighttime.

Section 2. Section 611 of said act, as reenacted and amended by the act, approved the tenth day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1481), is hereby further amended to read as follows:

Section 611. Delegates.—Each county association of township supervisors shall elect one township supervisor or township secretary for each ten townships, or fraction thereof, within said county, as a delegate to each annual meeting of said State association.

Section 3. Section 612 of said act, as last amended by the act, approved the twentieth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1562), is hereby further amended to read as follows:

Section 612. Expenses and Mileage.—The expenses of the delegates attending the annual meeting shall not exceed [ten] *twelve* dollars per day for each delegate for not more than three days, together with [the actual mileage at the prevailing rate of railroad fare] *eight cents per mile in going to and returning from such meeting*, and shall be paid by the respective county associations.

Section 4. The first paragraph of section 702 of said act, as reenacted and amended by the act, approved the tenth day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1481), is hereby further amended to read as follows:

Section 702. Supervisors to Exercise Powers.—The corporate powers of townships of the second class shall be exercised by the township supervisors. *Where no*

Section 611, said act, as reenacted and amended by act of July 10, 1947, P. L. 1481, further amended.

Section 612, said act, as last amended by act of May 20, 1949, P. L. 1562, further amended.

First paragraph of section 702, said act, as reenacted and amended by act of July 10, 1947, P. L. 1481, further amended.

specific authority is given for the expenditures incident to the exercise of any power hereinafter conferred, or where no specific fund is designated from which such expenditures shall be made, appropriations for such expenditures shall be made only from the general township fund. In addition to the duties imposed upon them by section 516 hereof, they shall have power—

Clause II of section 702, said act, as last amended by act of May 11, 1949, P. L. 1187, further amended.

Section 5. Clause II of said section 702 of said act, as last amended by the act, approved the eleventh day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1187), is hereby further amended to read as follows:

Section 702. * * * * *

II. Contracts and Assessments for Lighting.—On the petition of the owners of a majority of the lineal feet frontage along any road, highway, or portion thereof within the township, to enter into contract with electric, gas, or other lighting companies to light and illuminate said roads and highways and other public places [in villages] with electric light, gas light, or other illuminant.

The township supervisors shall annually assess or cause to be assessed the cost and expense of the maintenance of said lights by an equal assessment on all property within two hundred and fifty (250) feet of such lighting in proportion to the number of feet the same fronts on the street or highway or portion thereof to be lighted. The supervisors may provide for an equitable reduction from the frontage of lots at intersections or where, from the peculiar or pointed shape of lots, an assessment of the full frontage would be inequitable. No such assessment shall be made against any farm land, but vacant lots between built-up sections, whether tilled or untilled, shall not be deemed to be farm lands: Provided, however, That the assessment per front foot against vacant lots shall be only twenty-five per centum of the assessment per foot front against property with improvements thereon. All such assessments for street lighting shall be filed with the township tax collector, who shall give thirty days written or printed notice that the assessments are due and payable, stating the due date to each party assessed, either by service on the owner of the property, or by mailing such notice to the owner at his last known post office address. The tax collector shall be entitled to the same commission for the collection of such assessments as he is entitled to by law for the collection of the township road tax. If the assessments, or any of them, remain unpaid at the expiration of not exceeding ninety days, the exact time to be fixed by the township supervisors, they shall be placed in the hands of the township solicitor for collection. The solic-

itor shall collect the same, together with five per centum as attorney's commission, and interest, from the date such assessments were due, by a municipal claim filed against the property of the delinquent owner in like manner as municipal claims are by law filed and collected. Where an owner has two or more lots against which there is an assessment for the same year, all such lots shall be embraced in one claim. All assessments, when collected, shall be paid over to the township treasurer, who shall receive and shall keep the same in a separate account, and pay out the same only upon orders signed by the chairman of the township supervisors, attested by the secretary. The tax collector and the treasurer shall make a report to the auditors of the township annually.

Section 6. Clause III of said section 702 of said act, as last amended by the act, approved the twentieth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1562), is hereby further amended to read as follows:

Clause III section 702, said act, as last amended by act of May 20, 1949, P. L. 1562, further amended.

Section 702.

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III. Contracts and Tax Levy for Fire Purposes.—On the petition of the surface property owners of a majority of the lineal feet frontage along any highways, streets, roads and alleys, or portion thereof, [in any village] within the township, to enter into contract with water companies for the placing of fire hydrants, to water mains maintaining pressures approved by the fire insurance underwriters along said highways, streets, roads and alleys or to provide for or acquire a water supply system equipped to supply sufficient water for the protection of property from fire.

The moneys necessary for acquiring any such water system may be obtained by proceeding in accordance with either of the methods set forth in paragraphs A and B, as follows:

A. The supervisors shall levy, for the acquisition of a water system for the maintenance of such fire hydrants and for the purchase of hose, et cetera, an annual tax upon the property abutting upon said highways, streets, roads and alleys and upon property within six hundred feet of any fire hydrant in the district benefited thereby, based upon the assessment for county purposes. No such tax shall be levied against any farm land or land used as an aviation field or against other property in the district not benefited thereby. Such tax shall be collected in the same manner as other taxes. The collector shall receive the same commission as on the township tax. The township treasurer shall receive all such taxes col-

lected for fire protection, and keep the same in a separate account, and pay the same out only upon orders signed by the chairman of the board of supervisors, attested by the secretary. The treasurer shall make a report to the auditors of the township annually.

B. The township supervisors shall annually assess or cause to be assessed the cost and expense for the acquisition of a water system for the maintenance of such fire hydrants and for the purchase of hose, et cetera by an equal assessment on all property abutting upon said highways, streets, roads and alleys within six hundred feet of any fire hydrant in the district benefited thereby, in proportion to the number of feet the said property fronts on any street, highway, road or alley upon which a water main is laid, or within six hundred feet of any fire hydrant on such street, highway, road or alley. The supervisors may provide for an equitable reduction from the frontage of lots it intersects, or where from the peculiar or pointed shape of lots an assessment of the full frontage would be inequitable. No such assessment shall be made against any farm land, but vacant lots between built-up sections, either tilled or untilled, shall not be deemed to be farm lands. All such assessments for fire protection shall be filed with the township tax collector who shall give thirty (30) days written or printed notice that the assessments are due and payable, stating the due date to each party assessed, either by service on the owner of the property or by mailing such notice to the owner at his last known post office address. The tax collector shall be entitled to the same commission for the collection of such assessments as he is entitled to by law for the collection of the township road tax. If the assessments or any of them remain unpaid at the expiration of not exceeding ninety (90) days, the exact time to be fixed by the township supervisors, they shall be placed in the hands of the township solicitor for collection. The solicitor shall collect the same together with five percent as attorney's commission and interest from the date such assessments were due by a municipal claim filed against the property of the delinquent owner in like manner as municipal claims are by law filed and collected. Where an owner has two or more lots against which there is an assessment for the same year all such lots may be embraced in one claim. All assessments when collected shall be paid over to the township treasurer who shall receive and shall keep the same in a separate account and pay the same only upon orders signed by the chairman of the township supervisors attested by the secretary. The tax collector and the treasurer shall make a report to the auditors of the township, annually.

Section 7. Clauses IV, VIII, X, XXXVII and XLI of said section 702 of said act, as added or reenacted and amended by the act, approved the tenth day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1481), are hereby amended or further amended, as the case may be, to read as follows:

Clauses IV, VIII, X, XXXVII and XLI of section 702, said act, as added or reenacted and amended by act of July 10, 1947, P. L. 1481, amended or further amended, as the case may be.

Section 702. * * * * *

IV. Fire Protection.—To *purchase, or contribute to the purchase of, fire engines and fire apparatus, for the use of the township, and to appropriate moneys to fire companies located therein for the operation and maintenance thereof, and for the purchase and maintenance of fire apparatus, and for the construction, repair and maintenance of fire company houses, in order to secure fire protection for the inhabitants of the township. An annual report of the expenditure of such appropriated moneys shall be made to the township supervisors for each completed fiscal year of the township by such fire companies, verified by an officer thereof, before any further payments shall be made to such fire companies out of appropriations for any current fiscal year. To ordain rules and regulations for the government of such fire companies and their officers. To enter into contracts with the proper authorities of near or adjacent cities, boroughs, or townships, or fire departments, fire companies, or fire company therein, for the furnishing to such townships of fire protection by the fire department, fire departments, fire companies, or fire company of such cities, boroughs, or townships, and to make appropriations therefor: Provided, That such contracts before being entered into by township supervisors shall be first approved by the township auditors.*

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VIII. Garbage Regulations.—[To provide for the care and removal of ashes, garbage, and other refuse material, including the imposition and collection of reasonable fees and charges therefor, and] *To prohibit accumulations* of garbage and rubbish upon private property, including the imposition and collection of reasonable fees and charges for the collection and removal thereof. They shall also have power to—*

(1) provide, by contract or otherwise, for the collection, removal and disposal, through incinerating works, garbage plants or otherwise, of ashes, garbage and rubbish, and to prescribe penalties for the enforcement thereof; any such contract may be made for a period not exceeding three years. To erect, maintain and operate garbage or incinerating plants, either within or without the limits of the township, in order to provide for the destruction of garbage and other refuse material, and to provide for the payment of the cost and expense

thereof, either in whole or part, out of the funds of the township; and to acquire and to maintain lands and places for the dumping of ashes and other refuse material, or, in the absence of such collection, removal and disposal plan for the entire township, the supervisors shall—

(2) on petition of a majority of the adult taxable residents of any territory within the township, which has been definitely defined, set apart and limited by the township supervisors, with the approval of the township auditors, as a village, prior to the filing of any such petition, [the supervisors shall,] either with township employes and facilities, or with independent contractors, provide for the removal from the village of ashes or garbage or other refuse material, as the case may be, and for the disposal thereof. The supervisors shall levy a per capita assessment upon all adult residents of any such village, sufficient to defray the cost of such removal and disposal. Such assessment shall be collected in the same manner as per capita taxes, and the collector shall receive the same commission thereon. The treasurer of the board of supervisors shall receive all such assessments collected and keep the same in a separate account and pay the same out only upon orders signed by the chairman and attested by the secretary of the board of supervisors. The treasurer shall make an annual report of the account to the auditors of the township.

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X. Roads.—To purchase or hire material, equipment, machinery, teams and implements as shall be necessary for the construction, repair and maintenance of roads and bridges. Records shall be kept of the rental paid for all equipment, machinery, teams and implements hired. To lease or lend, for adequate consideration, such equipment, machinery and implements, to contract, to construct, reconstruct, improve or maintain driveways on lands owned or occupied by school districts of the township, *to construct, reconstruct and improve*, and to contract for the construction, reconstruction and improvement of roads in the township.

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XXXVII. *Naming of Streets; Numbering of Buildings.*—To provide for and regulate the naming of streets, roads and highways, and to require and regulate the numbering of buildings.

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XLI. Ordinances.—To adopt ordinances prescribing the manner in which such specific powers of the township shall be carried out. All such ordinances, unless otherwise provided by law, shall be published prior to passage at least once in one newspaper circulating generally in

the township. [An ordinance shall not become effective until ten days after the passage aforesaid.] *Except as otherwise provided in this act, an informative notice of the passage of all such ordinances shall be advertised once in one newspaper circulating generally in the township. Such ordinances shall be recorded in the ordinance book of the township and shall become effective five days after such advertising.* In any case in which maps, plans, or drawings of any kind are adopted as part of an ordinance, the supervisors may, instead of publishing the same as part of the ordinance, refer in publishing the ordinance to the place where such maps, plans, or drawings are on file and may be examined. The board of supervisors may prescribe fines and penalties not exceeding three hundred dollars in any instance for the violation of any such township ordinances, which fines and penalties may be collected by suit or summary proceeding brought in the name of the township before any justice of the peace. Proceedings for the violation of township ordinances and for the collection of fines and penalties imposed thereby may be commenced by warrant, or by summons, at the discretion of the justice of the peace before whom the proceeding is begun. No warrant shall be issued, except upon complaint on oath or affirmation specifying the ordinance for the violation of which the same is issued. All proceedings shall be directed to, and be served by, a constable of the township. Warrants shall be returnable forthwith and upon such return like proceeding shall be had, as in cases of summary conviction. All fines and penalties collected for the violation of township ordinances shall be paid over to the township treasury. Upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced and committed to the township lockup for a period not exceeding five days, or to the county jail, or workhouse for a period not exceeding thirty days.

[Except as otherwise provided in this act, no ordinance shall be considered in force until same is recorded in the ordinance book of the township and is advertised as required in this subsection.]

Any person aggrieved may, within thirty days after any ordinance or resolution takes effect, make complaint as to the legality of such ordinance or resolution to the court of quarter sessions upon entering into recognizance with sufficient surety to prosecute the same with effect, and for the payment of costs. The determination and order of the court thereon shall be conclusive.

Section 702, said act, as so reenacted and amended, and as amended by acts of May 13, 1949, P. L. 1324 and May 20, 1949, P. L. 1562, further amended by adding immediately following clause XLVI thereof, certain new clauses.

Section 8. Said section 702 of said act, as so reenacted and amended, and as amended by the acts, approved the thirteenth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1324), and the twentieth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1562), is hereby further amended by adding, immediately following clause XLVI thereof, new clauses to read as follows:

XLVII. Public Safety.—*To take all needful means for securing the safety of persons or property within the township.*

XLVIII. Committing Magistrate.—*To designate, from time to time, one of the justices of the peace to sit at the police station or town hall as a committing magistrate.*

XLIX. Fire Houses.—*To provide and maintain suitable places for the housing of engines, hose carts and other apparatus for the extinguishment of fire. No such building shall be erected or maintained without obtaining the assent of the electors thereof, expressed at an election to be held at the place, time and under the same regulations as provided by law for the holding of municipal elections.*

L. Building Regulations.—*To prohibit or regulate the erection of wooden buildings in certain parts of the township, and make regulations for the construction of new buildings and the alteration and repair of old ones, and to require that before the work begins, municipal approval of the plans and specifications therefor be secured; to classify buildings or parts of buildings according to the use to be made of them; to specify the mode of construction of such different classes of buildings; and to require that before any use or occupancy be changed from any classification to a different classification, as to which more stringent regulations are prescribed under the provisions of any ordinance relating thereto, municipal approval of the plans and specifications therefor be secured.*

LI. Building Sanitation Regulations.—*In addition to other remedies provided by law, and in order to promote the public health, safety, morals, and the general welfare, to enact and enforce suitable ordinances to govern and regulate the construction, alteration, repairs, occupation, maintenance, sanitation, lighting, ventilation, water supply, toilet facilities, drainage, use and inspection of all buildings or parts of buildings constructed, erected, altered, designed, or used in whole or in part for human habitation, and of the sanitation and inspection of land appurtenant thereto. In case any building or structure is constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land*

is used in violation of any ordinance enacted under authority conferred hereby, the township supervisors, in addition to penalties provided by ordinances enacted hereunder, may institute appropriate actions or proceedings at law or in equity to prevent and restrain such unlawful construction, reconstruction, alteration, repairs, conversion, maintenance, or use, and to restrain, correct or abate such violation, and to prevent the occupancy of said building or structure. The ordinances enacted pursuant to this clause shall not be inconsistent with the provisions of any statute governing the same matter, but all regulations prescribed by such ordinances which are additional or supplementary to the statute law and not inconsistent therewith, or enacted for the purpose of carrying into effect the provisions of the statute law, shall be valid and binding. Such ordinances may adopt any standard building code published and printed in book form covering any or all of the above items without incorporating such building code in the ordinance, or any township may enact such building code as its ordinance authorized under the provisions of this clause. In either event, such building code shall not be published or advertised in full as provided by this section in the case of the adoption of ordinances: *Provided, That notice of the adoption of such standard building code as the building ordinance of the township, together with a brief summary thereof setting forth the principal provisions of said ordinance in such reasonable detail as will give adequate notice of its contents, pursuant to a uniform form which shall be prepared or approved by the Department of Labor and Industry, and a reference to the place or places within the township where copies of the building code adopted are deposited and may be examined, shall be published in the manner provided by this section for the publication of ordinances. Not less than three such copies shall be made available to public inspection and use during business hours for a period of not less than three months after the adoption of such building code.*

LII. Building Inspectors.—To provide for the inspection of the construction and repair of buildings, including the appointment of one or more building inspectors; to prescribe limits wherein none but buildings of non-combustible material and fireproof roofs shall be erected or substantially reconstructed or removed thereinto; to provide penalties for the violation of such regulations. Any building erected, reconstructed or removed contrary to the provisions of any ordinance passed for any of the purposes herein specified, is declared to be a public nuisance and abatable as such.

LIII. Building Lines.—To establish, by ordinance, and maintain, uniform building lines upon any or all public streets or highways of the township.

Section 802, said act, as last amended by act of May 20, 1949, P. L. 1562, further amended.

Section 9. Section 802 of said act, as last amended by the act, approved the twentieth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1562), is hereby further amended to read as follows:

Section 802. Letting Contracts.—Each township shall have the power to make, to authorize, and to ratify, expenditures for lawful purposes from funds available therefor, by borrowing within legal limitations: Provided, That all contracts or purchases in excess of [five hundred dollars (\$500)] *seven hundred fifty dollars*, 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, published or circulating in the county in which the township is situated, at least three 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 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 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.

The acceptance of bids shall only be made by public announcement at the meeting at which bids are received, or at a subsequent meeting, the time and place of which shall be publicly announced when bids are received. If for any reason one or both of the above meetings shall not be held, the same business may be transacted at subsequent meetings: Provided, That at least five days' notice thereof shall be published in the newspaper aforesaid.

The successful bidder, when advertising is required herein, shall be required to furnish a bond with suitable reasonable requirements, guaranteeing performance of the contract, with sufficient surety in the amount of fifty per centum (50%) of the amount of the contract within twenty days after the contract has been awarded, unless the supervisors shall prescribe a shorter period not less than ten days, and upon failure to furnish such bond within such time, the previous award shall be void. Delivery, accomplishment and guarantees may be required in all cases of expenditures, including the exceptions herein.

* "othewise" in original.

The contracts or purchases made by any supervisors involving an expenditure of over [five hundred dollars (\$500)] *seven hundred fifty dollars*, which shall not require advertising or bidding as hereinbefore provided, are as follows:

(a) Those made for maintenance, repairs or replacements for water, electric light and other public works of the township, provided they do not constitute new additions, extensions or enlargements of existing facilities and equipment, but a bond may be required by the supervisors as in other cases of work done.

(b) Those made for improvements, repairs or maintenance of any kind, made or provided by any township, through its own employes: Provided, however, That this shall not apply to construction materials used in a road improvement.

(c) Those where particular types, models or pieces of new equipment, articles, apparatus, appliances, vehicles, or parts thereof, are desired by the supervisors, which are patented and manufactured products.

(d) Those involving any policies of insurance or surety company bonds, those made for public utility service under tariffs on file with the Pennsylvania Public Utility Commission, those made with another political subdivision, county, the Commonwealth of Pennsylvania, or the Federal Government, or any agency of the Commonwealth or Federal Government, or any municipal authority, including the sale, leasing or loan of any supplies or materials by the Commonwealth, or the Federal Government, or their agencies, but the price thereof, or the expenditure therefor, shall not be in excess of those fixed by the Commonwealth, the Federal Government or their agencies.

(e) Those involving personal or professional services. Except as herein provided, no township official, either elected or appointed, who knows or who, by the exercise of reasonable diligence, could know, shall be interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any supplies or materials for the use of the township, or for any work to be done for such township involving the expenditure by the township of more than three hundred dollars (\$300) in any year, but this limitation shall not apply to cases where such officer, or appointee of the township, is an employe of the person, firm or corporation to which the money is to be paid in a capacity with no possible influence on the transaction, and in which he cannot be possibly benefited thereby, either financially or otherwise: Provided, however, That in the case of a supervisor, if he knows that he is within the exception just mentioned, he shall so inform the supervisors and shall re-

frain from voting on the expenditures, or any ordinance relating thereto, and shall in no manner participate therein: Provided, further, That any such official or appointee who shall knowingly violate this provision shall be subject to surcharge to the extent of the damage shown to be thereby sustained by the township, ouster from office, and shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500): Provided, That, in the case of the purchase of material for the construction, reconstruction, maintenance and improvement of roads and bridges, the contract, which shall be in writing, and shall be let only on standard specifications of the Department of Highways, and materials so purchased shall only be used in accordance with specifications of said department.

Article VIII, said act, as reenacted and amended by act of July 10, 1947, P. L. 1481, further amended by adding, immediately following section 802 thereof, a new section 802.1.

Section 10. Article VIII of said act, as reenacted and amended by the act, approved the tenth day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1481), is hereby further amended by adding, immediately following section 802 thereof, a new section to read as follows:

*Section *802.1. Evasion of Advertising Requirements.—No supervisor or supervisors shall evade the provisions of section eight hundred two as to advertising for bids, by purchasing or contracting for services and personal properties piecemeal for the purpose of obtaining prices under seven hundred and fifty dollars upon transactions **which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than seven hundred and fifty dollars. 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 supervisors 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 per centum of the full amount of the contract or purchase. Whenever it shall appear that a supervisor may have voted in violation of this section, but the purchase or contract on which he so voted was not approved by the board of supervisors, this section shall be inapplicable.*

* "801.1" in original.

** "which" omitted in original.

Section 11. Clause 4 of section 905 of said act, as last amended by the act, approved the twentieth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1562), is hereby further amended to read as follows:

Clause 4 of section 905, said act, as last amended by act of May 20, 1949, P. L. 1562, further amended.

Section 905. Township and Special Tax Levies.—A. The board of township supervisors may, by resolution, levy taxes upon all real property and upon all occupations, or upon real property alone, within the township made taxable for township purposes, as ascertained by the last adjusted valuation for county purposes, for the purposes and at the rates hereinafter specified. All taxes shall be collected in cash.

* * * * *

4. A tax, not exceeding two mills, and not exceeding the amounts hereinafter limited, for the purpose of purchasing and maintaining fire apparatus and to provide, with the assent of the electors of the township as hereinafter provided, a suitable place for the housing of the same, and to make appropriations to fire companies for the purchase and maintenance of fire apparatus; [but the total expenditure for the purchase of fire apparatus by the township, together with the amount of appropriation to one or more fire companies from such taxes, shall not, for the first fiscal year, exceed in all the sum of seven thousand five hundred dollars; nor shall any] *but no* new fire apparatus *shall* be thereafter purchased by the township, or by any fire company from appropriations made by the township, without the consent of the electors as hereinafter provided.

Section 12. Article IX of said act, as reenacted and amended by the act, approved the tenth day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1481), is hereby further amended by adding, immediately following section 911 thereof, a new section to read as follows:

Article IX, said act, as reenacted and amended by act of July 10, 1947, P. L. 1481, further amended by adding, immediately following section 911 thereof, a new section 912.

Section 912. Road Machinery Fund; Special Tax.—Townships are hereby empowered to create a special fund to be known as the road machinery fund and to accumulate therein moneys to be used exclusively for purchasing road machinery. Such special fund may consist of, (1) moneys transferred during any fiscal year from appropriations made from the general township fund; (2) moneys transferred from surplus moneys in the general township fund at the end of any fiscal year; and, (3) moneys appropriated to the fund in the annual budget from the receipts of a special tax, not exceeding two mills, which the supervisors may levy and collect for that purpose, annually, upon all property taxable for township purposes.

Section 1101, said act, as amended by act of May 2, 1949, P. L. 819, further amended.

Section 13. Section 1101 of said act, as amended by the act, approved the second day of May, one thousand nine hundred forty-nine (Pamphlet Laws 819), is hereby further amended to read as follows:

Section 1101. Power to Lay Out, Open, Widen, Vacate, Et Cetera.—The township supervisors may *by ordinance* enact, ordain, survey, lay out, open, widen, straighten, vacate and relay all roads and parts thereof which are wholly within the township, upon the petition of a majority in interest of the owners of property or properties through whose land such road passes, or upon whose land it abuts, or without petition of the owners of abutting property, if in the judgment of the supervisors, it is necessary for the public convenience. Such power shall include authority to vacate, in whole or in part, roads laid out by the Commonwealth, where the same have remained unopened for a period of thirty years, and also the authority to lay out and open a public road which will be a continuation or extension of a street already opened by an adjacent city, [or] borough or township, and to provide in any ordinance for the vacation of a road, that all or part thereof shall be a private road.

The township supervisors may also, by ordinance, enact, ordain, survey, lay out, open, widen, straighten, vacate and relay roads, partly within the township, where similar concurrent action is taken by the authorities of all political subdivisions wherein the road is located.

When any petition is presented to the township supervisors under the provisions of this section and the supervisors fail to act on the petition within sixty (60) days, the petitioners may present their petition to the court of quarter sessions which shall proceed thereon as provided by the general road law.

No such road shall be laid out and opened through any burial ground or cemetery, nor through any grounds occupied by a building used as a place for public worship, or as a public or parochial school, or educational or charitable institution, or seminary, unless the consent of the owner or corporation or person controlling the premises is first secured.

Sections 1102, 1103 and 1104, said act, as added by act of July 10, 1947, P. L. 1481, and section 1102 of which was also amended in part by act of May 2, 1949 P. L. 819, amended or further amended, as the case may be.

Section 14. Sections 1102, 1103 and 1104 of said act, as added by the act, approved the tenth day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1481), and section 1102 of which was also amended in part by the act, approved the second day of May, one thousand nine hundred forty-nine (Pamphlet Laws 819), are hereby amended to read as follows:

Section 1102. Hearing; Report; Exceptions Thereto; View and Notice.—(a) [The] *Prior to the passage of any ordinance for the laying out, opening, changing or*

vacating of any road or section thereof, the supervisors shall give ten days' written notice to the property owners affected thereby of the time and place when and where all parties interested may meet and be heard. Witnesses may be summoned and examined by the supervisors and by the parties interested at such meeting or any adjournment thereof.

(b) After such hearing and a consideration of the matter, should the supervisors, or a majority thereof, decide in favor of exercising the power, so conferred, they shall make written report, together with a draft or survey of the road, fixing the width thereof, and noting the improvements along the line thereof, and the names of the owners of property through which the same shall pass, or whereon it shall abut. [Such] *Duplicate copies of such report and draft shall be filed in the office of the clerk of the court of quarter sessions. Upon the filing of such report and draft, the supervisors may enact the necessary ordinance.*

(c) Any citizen or freeholder of the township may, within thirty days after the filing of the report of the supervisors, upon entering in the court sufficient surety to indemnify them for all costs incurred in the proceedings, file exceptions to the report together with a petition for a review. *Thereupon, the court of quarter sessions shall appoint viewers from the county board of viewers for the purpose of the review.*

(d) Upon favorable action on such matter by the supervisors, and after the expiration of the term allowed for filing exceptions, or upon the order of the court upon the disposition of any exceptions, if in either case the compensation for the damages or benefits accruing therefrom have not been agreed upon, the court of common pleas, or any law judge thereof in vacation, on application by petition by the supervisors, or any person interested, shall appoint three viewers from the county board of viewers to assess the damages and benefits occasioned by the proceeding, in the manner provided by this act for such proceedings.

(e) After the passage or approval of any ordinance by the supervisors for the opening, widening, straightening, extending or vacating any road, notice shall, within ten days thereafter, be given by handbills, posted in conspicuous places along the line of the [proposed improvement] *road*. Such notice shall state the fact of the passage or approval of the ordinance and the date of the passage or approval.

(f) Petitions by property owners shall include the name and address of a person upon whom notices may be served. All petitions shall be acted on within sixty (60) days after the hearing thereon. Within such period, the

supervisors shall notify the person designated in the petition of their action thereon. If the prayer of the petition is refused, the petitioners, or a majority of them, may, within thirty days after receipt of the notice, petition the court of quarter sessions for the appointment of viewers and proceedings shall be had thereon in accordance with the general road law.

Section 1103. Width of Public Roads.—The width of a public road in townships of the second class shall not be less than thirty-three feet or more than one hundred and twenty feet, unless in any particular case, the supervisors shall determine that a road of lesser width will be sufficient for public use and travel: *Provided, That when the public road desired to be opened is in a built up section of any township of the second class, of the type commonly known as an alley, and is not an integral part of a through route, the minimum width may be fifteen feet:* And, provided, That the limits of width shall not be construed to include the width required for necessary slopes in cuts or fills, when the limits of the road and the extra width required for such slopes exceed the limits of width herein specified.

Section 1104. Laying Out Roads Under the General Road Law.—All roads, partly within townships of the second class, where one of the termini of such roads is without the township, shall be laid out, widened, changed or vacated only by the courts of quarter sessions, as heretofore in the manner provided by the general road law and the amendments, additions, and supplements thereto, *except where concurrent action is taken by all political subdivisions wherein such road is located.* But no such road shall be opened, changed, widened, altered or vacated, unless and until the supervisors of the township shall have passed a resolution consenting and approving thereto, and shall have filed with the clerk of said court, a copy of such resolution duly certified by the township secretary. All damages and benefits occasioned by such laying out, and the subsequent opening thereof, or by any such widening, changing or vacation shall be assessed, collected and paid in the manner provided by the general road law and the amendments, additions and supplements thereto: *Provided, That all damages occasioned by such laying out, and the opening thereof, or by the widening, changing or vacating of all roads within townships of the second class shall be assessed, collected and paid by such townships of the second class.*

Section 1135, said act, as last amended by acts of April 14, 1949, P. L. 474 and May 20, 1949, P. L. 1562, further amended.

Section 15. Section 1135 of said act, as last amended by the acts, approved the fourteenth day of April, one thousand nine hundred forty-nine (Pamphlet Laws 474),

and the twentieth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1562), is hereby further amended to read as follows:

Section 1135. Petition of Property Owners.—Any township may grade, curb, gutter, pave or otherwise improve, with brick, stone or any suitable materials, any public street or road, or part thereof, laid out and opened in the township. *Such work may be done by employes of the township or by contract, as the board of supervisors shall determine.* No street or road, or any part thereof, shall be improved under the provisions of this section, except upon the petitions of owners of property representing a majority in number of feet front of the properties abutting on the street or road, or part thereof, proposed to be improved.

Section 16. Said act, as reenacted and amended by the act, approved the tenth day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1481), is hereby further amended by adding, immediately following section 1147 of subdivision (i) of Article XI thereof, a new section, and by adding, immediately following Article XII thereof, a new article to read as follows:

(i) Deeds of Dedication; Dedicated Roads,
Streets and Drainage Facilities

* * * * *

Section 1148. Scope of Subdivision (i).—The provisions of this subdivision (i) of Article XI shall be applicable only in cases where a township shall fail to adopt and enforce land subdivision regulations as provided in Article XII-A of this act, and to situations not covered by such regulations.

Article XII-A

Land Subdivision

Section 1201-A. Supervisors Empowered to Adopt Regulations.—For the purpose of assuring sites suitable for building purposes and human habitation, and to provide for the harmonious development of townships, for adequate open spaces for traffic, recreation, light and air, and for proper distribution of population, thereby creating conditions favorable to the health, safety, morals and general welfare of the citizens, the boards of township supervisors are hereby empowered to adopt, by resolution, land subdivision regulations. Such regulations may include definitions, design standards, plan requirements, plan processing procedures, improvement construction requirements, and conditions of acceptance of public improvements by the township.

Said act, as reenacted and amended by act of July 10, 1947, P. L. 1481, further amended by adding, immediately following section 1147 of subdivision (i) of Article XI thereof, a new section 1148, and by adding, immediately following Article XII thereof, a new Article XII-A.

Section 1202-A. Public Hearing.—No such regulations shall first be adopted until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in an official paper, if one has been designated by the board of township supervisors, or if none has been so designated, then in a paper of general circulation in the township once a week for two successive weeks.

Section 1203-A. Subdivision Control.—Where subdivision regulations have been adopted under the authority of this article, no subdivision of any lot, tract or parcel of land shall be affected, no street, sanitary sewer, storm sewer, water main, or other facilities in connection therewith shall be laid out, constructed, opened, or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except in strict accordance with the provisions of such regulations.

Section 1204-A. Definition of Subdivision.—Subdivision may be defined as the division of a single lot, tract or parcel of land, or a part thereof, into two or more lots, tracts or parcels of land, including changes in street lines or lot lines, for the purpose, whether immediate or future, or transfer of ownership or of building development: Provided, however, That divisions of land for agricultural purposes in parcels of more than ten acres, not involving any new street or easement of access, shall be exempted.

Section 1205-A. Subdivisions Wherein Lots Abut Existing Improved Streets of Sufficient Width.—Such regulations may provide that plans of subdivisions wherein lots abut existing improved streets of sufficient width shall be subject to approval or rejection by the township engineer, or a committee appointed by the board of township supervisors, as specified in the resolution establishing the regulations. In the event such a plan is disapproved, the reasons therefor shall be set forth in writing and given to the applicant. Any person aggrieved by the decision of the township engineer or the committee may appeal to the board of township supervisors, and such appeal shall be considered by the board at its next regular meeting. The decision of the board shall be final.

Section 1206-A. Subdivisions Wherein Lots Abut Existing Streets of Insufficient Width, or Proposed Streets.—

(a) *Plans Subject to Approval or Rejection by Supervisors.* Plans of subdivisions wherein lots abut existing streets of insufficient width, or streets proposed to be laid out through unimproved land, shall be subject to approval or rejection by the board of township supervisors. In the event such a plan is disapproved, the rea-

sons therefor shall be set forth in writing and given to the applicant. Any party aggrieved by the decision of the board of township supervisors may appeal to the court of quarter sessions of the county, as hereinafter provided.

(b) *General Requirements Prerequisite to Approval of Plan.* The board of township supervisors shall not approve any subdivision plan unless all streets shown thereon shall be of sufficient width and proper grade, and shall be so located as to accommodate the probable volume of traffic thereon, afford adequate light and air, facilitate fire protection, provide access of fire fighting equipment to buildings, and provide a coordinated system of streets conforming to the township's official plan of streets; and unless the land whereon buildings are to be constructed shall be of such character that it can be used for building purposes, without danger to health or peril from fire, flood or other hazard.

(c) *Improvements or Guarantee Thereof Prerequisite to Approval of Plan.* Before approving any subdivision plan for recording, the board of township supervisors shall either require that the necessary grading, paving and other street improvements, including, where specified by the board, curbs, sidewalks, street lights, fire hydrants, water mains, sanitary sewers and storm sewers, shall have been installed in strict accordance with the standards and specifications of the township, or that the township be assured by means of a proper completion guarantee, in the form of a bond or the deposit of funds or securities in escrow sufficient to cover the cost of the required improvements, as estimated by the township engineer or township supervisors, that the said improvements will subsequently be installed by the owner.

(d) *Public Hearing.* Before acting on any subdivision plan, the board of township supervisors may arrange for a public hearing thereon, after giving such notice as the board may deem desirable in each case.

(e) *Modifications.* The board of township supervisors may alter any subdivision plan and specify changes or modification therein which it deems necessary, and may make its approval subject to such alterations, changes or modifications.

(f) *Appeals Where Supervisors Refuse Approval.* In any case where the board of township supervisors disapproves a subdivision plan, any person aggrieved thereby may, within thirty days thereafter, appeal therefrom, by petition to the court of quarter sessions of the county, which court shall hear the matter *de novo* and after hearing enter a decree affirming, reversing or modifying the action of the board, as may appear just in the premises. The court shall designate the manner in which notices of

the hearing of any such appeal shall be given to all parties interested. The decision of the court shall be final.

(g) Recording. The action of the board of township supervisors or of the court on appeal in approving any subdivision plan and an approved duplicate copy of such plan shall, within thirty days of the date of approval, be recorded by the owner in the office of the recorder of deeds of the county.

*(h) Recorded Plan *to Become Part of Official Plan. After a subdivision plan has been duly recorded, the streets, parks and other public improvements shown thereon shall be considered to be a part of the official plan of the township.*

(i) Offer of Dedication May Be Noted on Record Plan. Streets, parks and other public improvements shown on a subdivision plan to be recorded may be offered for dedication to the township by formal notation thereof on the plan, or the owner may note on the plan that such improvements have not been offered for dedication to the township.

(j) Streets, Parks and Other Improvements Private Until Dedicated or Condemned. Every street, park or other improvement shown on a subdivision plan that is recorded, as provided herein, shall be deemed to be a private street, park or improvement until such time as the same has been offered for dedication to the township and accepted, by resolution, or until it has been condemned for use as a public street, park or other improvement.

Section 1207-A. Sale of Lots; Issuance of Building Permit or Erection of Building.—Where subdivision regulations have been adopted under the authority of this article, no lot in a subdivision may be sold, no permit to erect, alter or repair any building upon land in a subdivision may be issued, and no building may be erected in a subdivision, unless and until a subdivision plan has been approved and, where required, recorded, and until the improvements required by the board of township supervisors in connection therewith have either been constructed or guaranteed, as hereinabove provided. Where, owing to special conditions, a literal enforcement of this provision would result in unnecessary hardship, the board of township supervisors may make such reasonable exception thereto as will not be contrary to the public interest, and may permit the sale of a lot, issuance of a permit, or erection of a building, subject to conditions necessary to assure adequate streets and other public improvements.

* "to" omitted in original.

Section 1208-A. Penalty.—Any person, copartnership or corporation who or which shall subdivide any lot, tract or parcel of land, lay out, construct, open or dedicate any street, sanitary sewer, storm sewer, or water main, for public use or travel or for the common use of occupants of buildings abutting thereon, sell any lot or erect any building in a subdivision without having first complied with the provisions hereof and the subdivision regulations adopted hereunder, shall be guilty of a misdemeanor, and, upon conviction thereof, such person, or the members of such copartnership, or the officers of such corporation, responsible for such violation, shall be sentenced to suffer imprisonment not exceeding two years, or pay a fine not exceeding one thousand dollars, or both, in the discretion of the court.

Section 17. Sections 1402, 1403 and 1901 of said act, as so reenacted and amended, are hereby further amended to read as follows:

Section 1402. Construction of Sidewalks or Sidewalks and Curbs Upon Petition of Property Owners.—The township supervisors may construct sidewalks or curbs, or sidewalks and curbs, [or both,] of suitable material, along the roads or highways, [through towns and villages] in such townships, upon the petition of owners of property representing a majority in number of feet front of the properties abutting on the roads or highways where such sidewalks or sidewalks and curbs are to be constructed. Whenever any such petition is filed with the supervisors, the owner of the property shall be given notice by the supervisors to construct such sidewalk or sidewalk and curb; and in case of the failure of the owner to complete such sidewalk or sidewalk and curb within a period of sixty days after the receipt of such notice, the supervisors may construct such sidewalk or sidewalk and curb as herein provided. Whenever any sidewalks or sidewalks and curbs are constructed by the supervisors, the expense of the construction of such sidewalk or sidewalk and curb shall be paid by the abutting property owners in proportion to their frontage. If such owners fail to so pay the expenses of the construction of such sidewalk or sidewalk and curb, the township supervisors may recover the amount by action of assumption, or may file municipal liens therefor against the abutting properties, in the manner provided by law for the filing and collection of municipal liens.

Section 1403. Power to Establish Lines, Grades and Width of Curbs, Sidewalks or Footpaths.—Supervisors of townships may regulate by [resolution] ordinance, the line, grade and width of curbs, sidewalks or footpaths constructed along the roads or highways in such townships, and shall have general supervision over the same and may establish a grade or grades for curbs, sidewalks

Section 1402,
1403 and 1901,
said act, as so re-
enacted and
amended, further
amended.

or footpaths, which grade or grades may be separate and apart from the grade or grades established for the cartway or roadway. *In case the highway is a State or county highway, the written consent of the Department of Highways or the county commissioners, as the case may be, shall first be obtained.*

Section 1901. Designation and Acquisition of Lands.—The supervisors of any township may by ordinance designate and set apart for use as parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers, hereinafter called recreation places, any lands or buildings, owned by such township, and not dedicated or devoted to other public use. Such township may, in such manner as may be authorized or provided by law for the acquisition of lands or buildings for public purposes in such township, acquire lands or buildings therein for any of such purposes or, if there be no law authorizing such acquisition, the township supervisors may acquire lands or buildings for such purposes by gift or purchase, or may lease lands or buildings in such township for temporary use for such purposes. *Whenever the supervisors designate or acquire any lands, with or without buildings, under the provisions of this section, except when the acquisition is under a lease for temporary use, they may construct buildings and facilities thereon for the purposes herein indicated.*

APPROVED—The 24th day of May, A. D. 1951.

JOHN S. FINE

No. 86

AN ACT

Providing for the construction and equipping of the Pennsylvania School for Mental Defectives; providing for the acquisition of land; providing for the care, maintenance and control of inmates; imposing duties and conferring powers on the Department of Welfare and the Department of Property and Supplies.

Mental health.

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

Department of Welfare directed to select land to be used for erection and construction thereon of a new institution for mental defectives.

Section 1. The Department of Welfare, with the approval of the Governor, shall select for acquisition by the Department of Property and Supplies in the name of the Commonwealth, land for the erection and construction thereon of a new institution for mental defectives, with a capacity of not less than six hundred inmates. Such land shall provide ample water supply and be capable of adequate sewerage and drainage, and the acreage obtained shall be sufficient for the most productive agricultural employment of the inmates.