

No. 1978-237

AN ACT

HB 2352

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 regulating contracts, advertisements, specifications, and bids for certain contracts.

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

Section 1. Subsection (a), the first paragraph and clause (2) of subsection (d) of section 1802 and section 1802.1, 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 November 23, 1976 (P.L.1135, No.243), are amended and section 1802 is amended by adding a subsection to read:

Section 1802. General Regulations Concerning Contracts.—(a) All contracts or purchases made by any township, involving the expenditure of over **[two thousand dollars,] two thousand five hundred 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 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. 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.

* * *

(d) The contracts or purchases made by the commissioners involving an expenditure of over **[two thousand dollars] two thousand five hundred dollars**, which shall not require advertising or bidding, as hereinbefore provided, are as follows:

* * *

(2) Those made for improvements, repairs and maintenance of any kind made or provided by any township through its own employes:

Provided, however, That all materials used for street improvement, maintenance, and/or construction in excess of **[two thousand dollars] two thousand five hundred dollars** be subject to the advertising requirements as contained herein.

* * *

(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 (No.3), known as the "Steel Products Procurement Act."

Section 1802.1. Evasion of Advertising Requirements.—No commissioner or commissioners shall evade the provisions of section one thousand 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 **[two thousand dollars] two thousand five hundred dollars** upon transactions, which transactions should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than **[two thousand dollars] two thousand five hundred 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 commissioners 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 commissioner 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 commissioners, this section shall be inapplicable.

Section 2. This act shall take effect in 60 days.

APPROVED—The 4th day of October, A. D. 1978.

MILTON J. SHAPP