

No. 1990-92

AN ACT

SB 745

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 display of flags; further regulating contracts, advertisements, specifications and bids for certain contracts; and providing a penalty.

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

Section 1. Clause XXXV of section 1502 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), is amended to read:

Section 1502. The corporate power of a township of the first class shall be vested in the board of township commissioners. The board shall have power—

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XXXV. Display of Flags. To display the flag of the United States, of the Commonwealth of Pennsylvania, **[and] the official POW/MIA flag and the flag** of any county, city, borough, or township on the public buildings **or grounds** or any property of the township.

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Section 2. Subsection (a) and the first paragraph and clause (2) of subsection (d) of section 1802 of the act, amended December 22, 1981 (P.L.535, No.154) and December 17, 1986 (P.L.1682, No.195), are amended and the section 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 **[four thousand dollars] 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. 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.

(a.1) Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts that exceed four thousand dollars but are less than the amount requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three 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 shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

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(d) The contracts or purchases made by the commissioners involving an expenditure of over **[four thousand dollars] ten thousand 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 **[four thousand dollars] ten thousand dollars** be subject to the advertising requirements as contained herein.

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Section 3. Sections 1802.1 and 1805 of the act, amended December 22, 1981 (P.L.535, No.154), are amended to read:

Section 1802.1. Evasion of Advertising Requirements.—(a) 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 **[four thousand dollars] ten thousand dollars** upon transactions, which transactions should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than **[four thousand dollars] ten thousand 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 con-

tract on which he so voted was not approved by the board of commissioners, this section shall be inapplicable.

(b) Any commissioner who votes to unlawfully evade the provisions of section one thousand eight hundred two and who knows that the transaction upon which he so votes 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 commits a misdemeanor of the third degree for each contract entered into as a direct result of that vote. This penalty shall be in addition to any surcharge which may be assessed pursuant to subsection (a).

Section 1805. Separate Specifications for Branches of Work.—In the preparation of specifications for the erection or alteration of any public building, when the entire cost of such work exceeds **[four thousand dollars]** *ten thousand dollars*, the architect, engineer, or person preparing such specifications shall prepare separate specifications for the plumbing, heating, ventilating, and electrical work, and the township shall receive separate bids upon each of such branches of work, and award the contract for the same to the lowest responsible bidder.

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

APPROVED—The 10th day of July, A. D. 1990.

ROBERT P. CASEY