

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1230 Session of 2023

INTRODUCED BY MOUL, FREEMAN, SAPPEY, SMITH-WADE-EL AND JAMES,
MAY 24, 2023

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 24, 2023

AN ACT

1 Amending the act of May 1, 1933 (P.L.103, No.69), entitled "An
2 act concerning townships of the second class; and amending,
3 revising, consolidating and changing the law relating
4 thereto," in auditors and accountants, further providing for
5 surcharge by auditors; and, in township manager, further
6 providing for township manager, appointment, removal, powers
7 and duties, compensation and bond.

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

10 Section 1. Section 907 of the act of May 1, 1933 (P.L.103,
11 No.69), known as The Second Class Township Code, is amended by
12 adding a subsection to read:

13 Section 907. Surcharge by Auditors.--* * *

14 (c) An elected or appointed officer of a township may not be
15 surcharged if the official acted in good faith reliance on a
16 written, nonconfidential opinion of the solicitor of the
17 township or an opinion of the township solicitor publicly stated
18 at an open meeting of the township and recorded in the official
19 minutes of the meeting. This subsection shall not apply if a
20 solicitor's opinion has been rendered under duress or if the

1 parties seeking and rendering the solicitor's opinion have
2 colluded to purposefully commit a violation of law. As used in
3 this subsection, the term "solicitor" shall include a special
4 counsel appointed by the township for a specific matter.

5 Section 2. Section 1301 of the act is amended to read:

6 Section 1301. Township Manager; Appointment, Removal, Powers
7 and Duties; Compensation; Bond.--(a) The board of supervisors
8 may by ordinance at any time create the office of township
9 manager and may in like manner abolish the office. While the
10 office exists, the board of supervisors shall appoint one
11 [person] individual, partnership, limited partnership,
12 association or professional corporation as the township manager
13 to fill the office. The township manager shall serve at the
14 pleasure of the board of supervisors, subject to contractual
15 rights that may arise under an employment or professional
16 services agreement that may be entered into in accordance with
17 subsection (a.1).

18 (a.1) The board of supervisors may enter into an employment
19 or professional services agreement with the township manager.
20 The employment or professional services agreement may set forth
21 the terms and conditions of employment, and the agreement may
22 provide that it shall remain in effect for a specified period
23 terminating no later than two years after the effective date of
24 the agreement or the date of the board of supervisors'
25 organizational meeting following the next municipal election,
26 whichever shall first occur. An employment or professional
27 services agreement entered into pursuant to this subsection may
28 specify conditions under which a township manager would be
29 entitled to severance compensation[, but in] if the township
30 manager is an individual, or payments for the termination of

1 appointment if the township manager is a partnership, limited
2 partnership, an association or professional corporation. In no
3 event shall an employment or professional services agreement
4 guarantee retention or employment through the term of the
5 agreement or confer upon the township manager any legal remedy
6 based on specific performance.

7 (b) The powers and duties of the township manager shall be
8 established by ordinance. The compensation shall be set by
9 resolution and paid out of the general fund of the township. The
10 board of supervisors may delegate, subject to recall, any of
11 their nonlegislative powers and duties to the township manager.
12 The township manager shall give bond to the township, with
13 sufficient surety, in the amount directed by the board of
14 supervisors, conditioned for the faithful performance of the
15 duties of the office.

16 (b.1) The township manager, if an individual, and, for a
17 partnership, limited partnership, association or professional
18 corporation appointed as the township manager, each officer and
19 employe directly providing services as required or authorized by
20 the agreement shall be considered a public official for purposes
21 of the provisions of 65 Pa.C.S. § 1103 (relating to restricted
22 activities).

23 (c) The office of township manager is not incompatible with
24 the office of township secretary, township treasurer or any
25 other township office or employment, except that of supervisor,
26 auditor or township police officer. In the case of a
27 partnership, limited partnership, association or professional
28 corporation appointed as township manager, the restriction under
29 this subsection shall apply to all officers and employes who
30 directly provide services as required or authorized by the

1 agreement.

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