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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1780

Session of  
1975

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INTRODUCED BY MESSRS. DeMEDIO, FRYER, RITTER, MEBUS AND WEIDNER,  
OCTOBER 1, 1975

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SENATOR MURPHY, LOCAL GOVERNMENT, IN SENATE, RE-REPORTED AS  
AMENDED, SEPTEMBER 21, 1976

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AN ACT

1 Amending the act of May 27, 1953 (P.L.244, No.34), entitled "An  
2 act relating to and regulating the contracts of incorporated  
3 towns and providing penalties," further regulating contracts  
4 as to advertising requirements.

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

7 Section 1. Subsections (a) and (d) of section 2 and sections  
8 3, 3.1 and 5, act of May 27, 1953 (P.L.244, No.34), entitled "An  
9 act relating to and regulating the contracts of incorporated  
10 towns and providing penalties," added or amended June 25, 1968  
11 (P.L.253, No.120), and clause (2) of subsection (d) of section 2  
12 amended May 6, 1970 (P.L.347, No.113), are amended to read:

13 Section 2. Regulation of Contracts.--(a) All contracts or  
14 purchases of incorporated towns in excess of [one thousand five  
15 hundred dollars] ~~two thousand dollars~~ TWO THOUSAND FIVE HUNDRED  
16 ~~DOLLARS~~ TWO THOUSAND DOLLARS, except those hereinafter  
17 mentioned, shall not be made except with and from the lowest  
18 responsible bidder, after due notice in one newspaper of general

1 circulation published or circulated in the county in which the  
2 town is situated at least three times at intervals of not less  
3 than three days where daily newspapers of general circulation  
4 are available for such publication, and in case of weekly  
5 newspapers shall be published once a week for two successive  
6 weeks. The first advertisement shall be published not less than  
7 ten days prior to the date fixed for the opening of bids. The  
8 amount of the contract shall in all cases, whether of straight  
9 sale price, conditional sale, bailment lease or otherwise, be  
10 the entire amount which the town pays to the successful bidder  
11 or his assigns in order to obtain the services or property or  
12 both, and shall not be construed to mean only the amount which  
13 is paid to acquire title or to receive any other particular  
14 benefit or benefits of the whole bargain.

15 \* \* \*

16 (d) The contracts or purchases made by council involving an  
17 expenditure of over [one thousand five hundred dollars] ~~two~~ <—  
18 ~~thousand dollars TWO THOUSAND FIVE HUNDRED DOLLARS TWO THOUSAND~~ <—  
19 ~~DOLLARS~~ which shall not require advertising or bidding as  
20 hereinbefore provided are as follows:

21 (1) Those for maintenance, repairs or replacements for  
22 water, sewer, electric light or other public works of the  
23 incorporated town, provided they do not constitute new  
24 additions, extensions or enlargements of existing facilities and  
25 equipment, but a bond may be required by council as in other  
26 cases of work done.

27 (2) Those made for improvements, repairs and maintenance of  
28 any kind made or provided by any incorporated town through its  
29 own employees: Provided, That all materials used for street  
30 improvement, maintenance and/or construction in excess of [one

1 thousand five hundred dollars] ~~two thousand dollars TWO THOUSAND~~ <—  
2 ~~FIVE HUNDRED DOLLARS TWO THOUSAND DOLLARS~~ be subject to the  
3 advertising requirements contained herein.

4 (3) Those where particular types, models or pieces of new  
5 equipment, articles, apparatus, appliances, vehicles or parts  
6 thereof are desired by council, which are patented and  
7 manufactured or copyrighted products.

8 (4) Those involving any policies of insurance or surety  
9 company bonds; those made for public utility service under  
10 tariffs on file with the Pennsylvania Public Utility Commission;  
11 those made with another political subdivision, or a county, the  
12 Commonwealth of Pennsylvania, the Federal Government, any agency  
13 of the Commonwealth or the Federal Government, or any municipal  
14 authority, including the sale, leasing or loan of any supplies  
15 or material by the Commonwealth or the Federal Government or  
16 their agencies. But the price thereof shall not be in excess of  
17 that fixed by the Commonwealth, the Federal Government, or their  
18 agencies.

19 (5) Those involving personal or professional services.

20 Section 3. Evasion of Advertising Requirements.--No member  
21 or members of council shall evade the provisions of Section two  
22 hereof by purchasing or contracting for services and personal  
23 properties piecemeal for the purpose of obtaining prices under

24 [one thousand five hundred dollars] ~~two thousand dollars TWO~~ <—  
25 ~~THOUSAND FIVE HUNDRED DOLLARS TWO THOUSAND DOLLARS~~ upon  
26 transactions which transaction should, in the exercise of  
27 reasonable discretion and prudence, be conducted as one  
28 transaction amounting to more than [one thousand five hundred  
29 dollars] ~~two thousand dollars TWO THOUSAND FIVE HUNDRED DOLLARS~~ <—  
30 TWO THOUSAND DOLLARS. This provision is intended to make

1 unlawful the evading of advertising requirements by making a  
2 series of purchases or contracts each for less than the  
3 advertising requirement of price, or by making several  
4 simultaneous purchases or contracts each below said price, when,  
5 in either case, the transactions involved should have been made  
6 as one transaction for one price. Any members of council who so  
7 vote in violation of this provision and who know that the  
8 transaction upon which they so vote is or ought to be a part of  
9 a larger transaction and that it is being divided in order to  
10 evade the requirements as to advertising for bids shall be  
11 jointly and severally subject to surcharge for ten per centum of  
12 the full amount of the contract or purchase.

13 Whenever it shall appear that a member of council may have  
14 voted in violation of this section but the purchase or contract  
15 on which he so voted was not approved by council, this section  
16 shall be inapplicable.

17 Section 3.1. Contracts between Seven Hundred Fifty Dollars  
18 and [One Thousand Five Hundred Dollars] ~~Two Thousand Dollars~~ TWO <—  
19 ~~THOUSAND FIVE HUNDRED DOLLARS;~~ TWO THOUSAND DOLLARS; Written  
20 Bids.--In all cases of contracts or purchases, other than the  
21 kinds mentioned in clauses (1) to (5) inclusive of subsection  
22 (d) of section 2 of this act, from seven hundred fifty dollars  
23 to [one thousand five hundred dollars] ~~two thousand dollars~~ TWO <—  
24 ~~THOUSAND FIVE HUNDRED DOLLARS~~ TWO THOUSAND DOLLARS inclusive,  
25 whether made by the town council or by an officer or appointee  
26 of the town, written bids shall be solicited therefor; and no  
27 such contract or purchase shall be made for the town except upon  
28 at least three such written bids. The specifications upon which  
29 bids are solicited shall be uniform in so far as possible to  
30 afford equal opportunity for bidding. Catalogues and circulars

1 of firm prices shall be acceptable as bids upon the contracts or  
2 purchases herein regulated. All such bids shall be retained in  
3 the proper department or office for a period of at least two  
4 months, and shall be reported monthly to the person designated  
5 by the town council, who shall make a consolidated monthly  
6 report thereof to council. The town council and the person  
7 designated by the town council shall have access to the bids in  
8 all departments and offices of the town for the enforcement of  
9 this provision. Any official or appointee of the town  
10 contracting or purchasing in violation of the provision of this  
11 section shall be liable upon his bond, if any, or personally, in  
12 the full amount of the purchase or contract so made, and the  
13 town council may avoid any such purchase or contract.

14 Section 5. Separate Bids for Plumbing, Heating, Ventilating  
15 and Electrical Work.--In the preparation for the erection,  
16 construction and alteration of any public building of an  
17 incorporated town, when the entire cost of such work shall  
18 exceed [one thousand five hundred dollars] ~~two thousand dollars~~ <—  
19 ~~TWO THOUSAND FIVE HUNDRED DOLLARS, TWO THOUSAND DOLLARS,~~ the <—  
20 architect, engineer or other person preparing such  
21 specifications shall prepare separate specifications for the  
22 plumbing, heating, ventilating and electrical work. The person  
23 or persons authorized to enter into contracts for the erection,  
24 construction or alteration of such public buildings shall  
25 receive separate bids upon each of the said branches of work and  
26 award the contract for the same to the lowest responsible bidder  
27 for each of said branches.

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