

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL****No. 1898** Session of  
1995

INTRODUCED BY PISTELLA AND TRELLO, JUNE 29, 1995

REFERRED TO COMMITTEE ON URBAN AFFAIRS, JUNE 29, 1995

## AN ACT

1 Amending the act of December 20, 1967 (P.L.869, No.385),  
2 entitled "An act establishing a uniform and mandatory system  
3 governing the requirement of bonds to be furnished by  
4 contractors in the prosecution of any public building, or  
5 other public work or public improvement, including road work;  
6 the rights and remedies of persons furnishing labor or  
7 material in the prosecution of such public building, public  
8 work or public improvement, including road work; procedure in  
9 connection with suits on payment bonds; rights of persons  
10 furnishing labor or materials to a copy of bond; prescribing  
11 penalties; and repealing other prior acts or provisions  
12 thereof inconsistent herewith," providing for contracts where  
13 the contracting body is a city of the second class.

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

16 Section 1. Section 3.1 of the act of December 20, 1967  
17 (P.L.869, No.385), known as the Public Works Contractors' Bond  
18 Law of 1967, added December 17, 1990 (P.L.694, No.171), is  
19 amended to read:

20 Section 3.1. (a)--[Before] Except as otherwise provided in  
21 subsection (a.1), before any contract exceeding five thousand  
22 dollars (\$5,000) for the construction, reconstruction,  
23 alteration or repair of any public building or other public work

1 or public improvement, including highway work, of any  
2 contracting body is awarded to any prime contractor, such  
3 contractor shall furnish to the contracting body the following  
4 financial security, which shall become binding upon the awarding  
5 of said contract to such contractor:

6 (1) Any financial security, acceptable to and approved by  
7 the contracting body, including, but not limited to, Federal or  
8 Commonwealth chartered lending institution irrevocable letters  
9 of credit and restrictive or escrow accounts in such lending  
10 institutions, equal to one hundred percent of the contract  
11 amount, conditioned upon the faithful performance of the  
12 contract in accordance with the plans, specifications and  
13 conditions of the contract. Such financial security shall be  
14 solely for the protection of the contracting body which awarded  
15 the contract.

16 (2) Any financial security, acceptable to and approved by  
17 the contracting body, including, but not limited to, Federal or  
18 Commonwealth chartered lending institution irrevocable letters  
19 of credit and restrictive or escrow accounts in such lending  
20 institutions, equal to one hundred percent of the contract  
21 amount. Such financial security shall be solely for the  
22 protection of claimants supplying labor or materials to the  
23 prime contractor to whom the contract was awarded, or to any of  
24 his subcontractors, in the prosecution of the work provided for  
25 in such contract, and shall be conditioned for the prompt  
26 payment of all such material furnished or labor supplied or  
27 performed in the prosecution of the work. "Labor or materials"  
28 shall include public utility services and reasonable rentals of  
29 equipment, but only for periods when the equipment rented is  
30 actually used at the site.

1       (a.1) Where the contracting body is a city of the second  
2 class, this act shall apply to contracts exceeding twenty-five  
3 thousand dollars (\$25,000) for the construction, reconstruction,  
4 alteration or repair of any public building or other public work  
5 or public improvement, including highway work.

6       (b) Any bond or other financial security under the  
7 provisions of this act shall be executed by one or more surety  
8 companies or Federal or Commonwealth chartered lending  
9 institutions, chosen by the party posting the financial security  
10 and acceptable to the contracting body, legally authorized to do  
11 business in the Commonwealth of Pennsylvania.

12       (c) A duplicate copy of each financial security, including  
13 bonds, shall be filed in the office of the contracting body  
14 which awarded the contract for which such bonds or financial  
15 security were given.

16       (d) For purposes of this section, the phrase "contracting  
17 body" shall mean any county, school district, intermediate unit,  
18 area vocational-technical school, city, borough, incorporated  
19 town, township, home-rule municipality and any authority formed  
20 under the act of May 2, 1945 (P.L.382, No.164), known as the  
21 "Municipality Authorities Act of 1945."

22       (e) For the contracting body as defined in subsection (d),  
23 the provisions of this section supersede the provisions of  
24 section 3 of this act.

25       Section 2. This act shall apply to any contract awarded  
26 pursuant to an invitation for bids issued on or after the  
27 effective date of this act.

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