

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1023 Session of
2009

INTRODUCED BY M. KELLER, BAKER, BOBACK, BOYD, BOYLE, BRENNAN,
CAUSER, CUTLER, FAIRCHILD, FLECK, GEIST, GINGRICH, GRELL,
HALUSKA, HARHART, HARPER, HARRIS, HESS, HICKERNELL, KAUFFMAN,
KORTZ, KOTIK, KULA, MARSICO, MENSCH, MILLARD, MILLER, MOUL,
O'NEILL, PAYNE, PEIFER, PETRI, PHILLIPS, PICKETT, PYLE,
REICHLEY, ROAE, ROCK, STERN, STEVENSON, SWANGER AND WATSON,
MARCH 24, 2009

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 24, 2009

AN ACT

1 Amending the act of August 6, 1936 (Sp.Sess., P.L.95, No.38
2 1/2), entitled "An act to authorize and empower cities,
3 boroughs, towns, and townships, separately or jointly, to
4 provide for protection against floods by erecting and
5 constructing certain works and improvements, located within
6 or without their territorial limits, and within or without
7 the county in which situate; and to expend moneys and incur
8 indebtedness; to assess benefits against property benefited;
9 to issue improvement bonds imposing no municipal liability;
10 and to acquire, take, injure or destroy property for such
11 purposes," further providing for competitive bidding of
12 contracts.

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

15 Section 1. Section 3 of the act of August 6, 1936 (Sp.Sess.,
16 P.L.95, No.38 1/2), entitled "An act to authorize and empower
17 cities, boroughs, towns, and townships, separately or jointly,
18 to provide for protection against floods by erecting and
19 constructing certain works and improvements, located within or
20 without their territorial limits, and within or without the

1 county in which situate; and to expend moneys and incur
2 indebtedness; to assess benefits against property benefited; to
3 issue improvement bonds imposing no municipal liability; and to
4 acquire, take, injure or destroy property for such purposes,"
5 amended July 10, 1990 (P.L.402, No.97), is amended to read:

6 Section 3. (a) No such works or improvements, involving an
7 expenditure by any municipality or municipalities of more than
8 [ten thousand dollars (\$10,000)] twenty-five thousand dollars
9 (\$25,000), subject to adjustment under subsection (b.1), shall
10 be erected, constructed or provided, except by contract let to
11 the lowest responsible bidder after due advertisement, once a
12 week for two successive weeks in at least one newspaper of
13 general circulation: Provided, however, That no contract shall
14 be required to be let for the performance of the work on any
15 such work or improvement where the cost of the labor shall be
16 paid by the Federal Government, or any agency thereof, without
17 cost to the municipality or municipalities.

18 (b) Written or telephonic price quotations from at least
19 three qualified and responsible contractors shall be requested
20 for all contracts that exceed [four thousand dollars (\$4,000)]
21 ten thousand dollars (\$10,000), subject to adjustment under
22 subsection (b.1), but are less than the amount requiring
23 advertisement and competitive bidding or, in lieu of price
24 quotations, a memorandum shall be kept on file showing that
25 fewer than three qualified contractors exist in the market area
26 within which it is practicable to obtain quotations. A written
27 record of telephonic price quotations shall be made and shall
28 contain at least the date of the quotation, the name of the
29 contractor and the contractor's representative, the
30 construction, reconstruction, repair, maintenance or work which

1 was the subject of the quotation and the price. Written price
2 quotations, written records of telephonic price quotations and
3 memoranda shall be retained for a period of three years.

4 (b.1) Adjustments shall be made as follows:

5 (1) The Department of Labor and Industry shall determine the
6 percentage change in the Consumer Price Index for All Urban
7 Consumers for the twelve-month period ending September 30 of the
8 calendar year in which this subsection becomes effective, and
9 for each successive twelve-month period thereafter.

10 (2) The amount at which competitive bidding is required
11 under subsection (a) and the amount at which written or
12 telephonic price quotations are required under subsection (b)
13 shall be adjusted annually as follows:

14 (i) In the case of competitive bidding, the positive
15 percentage change, as determined in accordance with paragraph
16 (1), shall be multiplied by the amount applicable under
17 subsection (a) for the current year and the product thereof
18 shall be added to the amount applicable under subsection (a) for
19 the current year, with the result rounded to the nearest
20 multiple of ten dollars (\$10).

21 (ii) In the case of written or telephonic price quotations,
22 the positive percentage change, as determined in accordance with
23 paragraph (1), shall be multiplied by the amount applicable
24 under subsection (b) for the current year and the product
25 thereof shall be added to the amount applicable under subsection
26 (b) for the current year, with the result rounded to the nearest
27 multiple of ten dollars (\$10).

28 (3) The annual determination required under paragraph (1)
29 and the calculation of the adjustments required under paragraph
30 (2) shall be made in the period between October 1 and November

15 of the year following the effective date of this subsection,
and annually between October 1 and November 15 of each
successive year.

(4) The adjusted amounts obtained in accordance with
paragraph (2) shall become effective January 1 for the calendar
year following the year in which the determination required
under paragraph (1) is made.

(5) The department shall give notice in the Pennsylvania
Bulletin prior to January 1 of each calendar year of the annual
percentage change determined in accordance with paragraph (1)
and the amounts, whether adjusted or unadjusted in accordance
with paragraph (2), at which competitive bidding is required
under subsection (a) and written or telephonic price quotations
are required under subsection (b) for the calendar year
beginning the first day of January after publication of the
notice.

(c) No municipality shall evade the provisions of this
section as to advertising for bids or purchasing materials or
contracting for services piecemeal for the purpose of obtaining
prices under [ten thousand dollars (\$10,000)] the amount
required by this section upon transactions which should, in the
exercise of reasonable discretion and prudence, be conducted as
one transaction amounting to more than [ten thousand dollars
(\$10,000)] the amount required by this section. This provision
is intended to make unlawful the practice of evading 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 transaction involved should have
been made as one transaction for one price.

1 (d) Any member of a governing body of a municipality who
2 votes to unlawfully evade the provisions of this section and who
3 knows that the transaction upon which he so votes is or ought to
4 be a part of a larger transaction and that it is being divided
5 in order to evade the requirements as to advertising for bids
6 commits a misdemeanor of the third degree for each contract
7 entered into as a direct result of that vote.

8 (e) Every contract for the construction, reconstruction,
9 alteration, repair, improvement or maintenance of public works
10 shall comply with the provisions of the act of March 3, 1978
11 (P.L.6, No.3), known as the "Steel Products Procurement Act."

12 Section 2. The amendment of section 3 of the act shall apply
13 to contracts and purchases advertised after December 31 of the
14 year in which this section takes effect.

15 Section 3. This act shall take effect immediately.