

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 284 Session of 2011

INTRODUCED BY M.K. KELLER, AUMENT, BAKER, BEAR, BENNINGHOFF, BLOOM, BOBACK, BOYD, BROOKS, CAUSER, CHRISTIANA, CLYMER, COX, CREIGHTON, CUTLER, DELOZIER, DENLINGER, ELLIS, EVERETT, FARRY, FLECK, GABLER, GEIST, GERBER, GILLESPIE, GINGRICH, GRELL, GROVE, HALUSKA, HARHART, HARPER, HARRIS, HELM, HENNESSEY, HESS, HICKERNELL, KAUFFMAN, KILLION, KNOWLES, MAJOR, MARSHALL, MARSICO, MASSER, METCALFE, MILLARD, MILLER, MOUL, OBERLANDER, O'NEILL, PAYNE, PEIFER, PERRY, PICKETT, PYLE, QUIGLEY, QUINN, RAPP, REED, REICHLEY, ROAE, ROCK, ROSS, SAYLOR, SCAVELLO, CULVER, SCHRODER, SIMMONS, SONNEY, STERN, STEVENSON, SWANGER, TALLMAN, TOBASH, TRUITT, TURZAI, VEREB, VULAKOVICH AND WATSON, JANUARY 27, 2011

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 27, 2011

AN ACT

1 Amending the act of August 9, 1955 (P.L.323, No.130), entitled,
2 as amended, "An act relating to counties of the first, third,
3 fourth, fifth, sixth, seventh and eighth classes; amending,
4 revising, consolidating and changing the laws relating
5 thereto; relating to imposition of excise taxes by counties,
6 including authorizing imposition of an excise tax on the
7 rental of motor vehicles by counties of the first class; and
8 providing for regional renaissance initiatives," in
9 contracts, further providing for commissioners sole
10 contractors for county, for contract procedures, terms and
11 bonds and advertising for bids and for evasion of advertising
12 requirements.

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

15 Section 1. Sections 1801 and 1802(a) and (b) of the act of
16 August 9, 1955 (P.L.323, No.130), known as The County Code,
17 amended December 22, 2000 (P.L.1019, No.142), are amended to
18 read:

1 Section 1801. Commissioners Sole Contractors for County.--

2 (a) The county commissioners shall contract for and purchase
3 all services referred to in section five hundred eight and
4 personal property for county officers and agencies. All
5 contracts and purchases not in excess of [ten thousand dollars
6 (\$10,000)] twenty-five thousand dollars (\$25,000) subject to
7 annual adjustment under subsection (b.1) shall be by note or
8 memorandum, in writing, signed by the county commissioners, or
9 their designee. A copy of all such notes and memorandums and all
10 written contracts shall be filed in the office of the
11 controller, if any, and, if not, then with the chief clerk of
12 the commissioners.

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

29 (b.1) (1) The Department of Labor and Industry shall
30 determine the percentage change in the Consumer Price Index for

All Urban Consumers for the twelve-month period ending September 30 of the calendar year in which this subsection becomes effective, and for each successive twelve-month period thereafter.

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

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

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

(3) The annual determination required under paragraph (1) and the calculation of the adjustments required under paragraph (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 of Labor and Industry 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) The commissioners shall, where possible, anticipate the
needs of the various officers, agencies and operations of the
county and endeavor to purchase in wholesale quantities, where
practicable and where savings could be achieved thereby. The
commissioners may make contracts and purchases for all purposes
expressly or impliedly authorized by law.

Section 1802. Contract Procedures; Terms and Bonds;
Advertising for Bids.--(a) All contracts for services and
personal property where the amount thereof exceeds the sum of
[ten thousand dollars (\$10,000),] twenty-five thousand dollars
subject to annual adjustment under section 1801(b.1) shall be
written and shall, except as otherwise hereinafter specified, be
made by advertising for bids.

(b) Contracts or purchases in excess of [ten thousand
dollars (\$10,000)] twenty-five thousand dollars subject to
annual adjustment under section 1801(b.1), except those
hereinafter mentioned and except as provided by the act of
October 27, 1979 (P.L.241, No.78), entitled "An act authorizing
political subdivisions, municipality authorities and

1 transportation authorities to enter into contracts for the
2 purchase of goods and the sale of real and personal property
3 where no bids are received," shall not be made except with and
4 from the lowest responsible and responsive bidder submitting a
5 bid in conformity with the specifications approved by the board
6 of commissioners for the contract or purchase, after due notice
7 in one newspaper of general circulation, published or
8 circulating in the county, at least two times at intervals of
9 not less than three days where daily newspapers of general
10 circulation are employed for such publication, or in case weekly
11 newspapers are employed then the notice shall be published once
12 a week for two successive weeks. The first advertisement shall
13 be published not less than ten days prior to the date fixed for
14 the opening of bids. The requirements of this subsection need
15 not be followed in cases of emergency, but in such cases the
16 actual emergency shall be declared and stated by resolution of
17 the commissioners.

18 * * *

19 Section 2. Section 1803 of the act, amended July 10, 1990
20 (P.L.379, No.89), is amended to read:

21 Section 1803. Evasion of Advertising Requirements.--(a) No
22 commissioner or commissioners shall evade the provisions of
23 section one thousand eight hundred two of this act, as to
24 advertising for bids or purchasing or contracting for services
25 and personal properties piece-meal, for the purpose of obtaining
26 prices under [ten thousand dollars (\$10,000)] twenty-five
27 thousand dollars subject to annual adjustment under section
28 1801(b.1) upon transactions which should in the exercise of
29 reasonable discretion and prudence be conducted as one
30 transaction amounting to more than [ten thousand dollars

1 (\$10,000)] twenty-five thousand dollars subject to annual
2 adjustment under section 1801(b.1). This provision is intended
3 to make unlawful the practice of evading advertising
4 requirements by making a series of purchases or contracts each
5 for less than the advertising requirement price, or by making
6 several simultaneous purchases or contracts each below said
7 price, when in either case the transaction involved should have
8 been made as one transaction for one price. Any county
9 commissioners who so vote in violation of this provision and who
10 know that the transaction upon which they so vote is or ought to
11 be a part of a larger transaction and that it is being divided
12 in order to evade the requirements as to advertising for bids
13 shall be, jointly and severally, subject to surcharge for any
14 loss sustained. Wherever it shall appear that a commissioner may
15 have voted in violation of this section, but the purchase or
16 contract on which he so voted was not approved by the board of
17 county commissioners, this section shall be inapplicable.

18 (b) Any county commissioner who votes to unlawfully evade
19 the provisions of section one thousand eight hundred two of this
20 act and who knows that the transaction upon which he so votes is
21 or ought to be a part of a larger transaction and that it is
22 being divided in order to evade the requirements as to
23 advertising for bids commits a misdemeanor of the third degree
24 for each contract entered into as a direct result of that vote.
25 This penalty shall be in addition to any surcharge which may be
26 assessed pursuant to subsection (a).

27 Section 3. This act shall apply to contracts and purchases
28 advertised on or after January 1 of the year following the
29 effective date of this section.

30 Section 4. This act shall take effect immediately.