

## 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, 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, WATSON AND F. KELLER, JANUARY 27, 2011

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 5, 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; AND, IN GROUNDS AND BUILDINGS, FURTHER  
13 PROVIDING FOR BIDS FOR PLUMBING, HEATING, VENTILATING, ←  
14 ELECTRICAL WORK, ELEVATORS AND MOVING STAIRS.

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

17 Section 1. Sections 1801 and 1802(a) and (b) of the act of  
18 August 9, 1955 (P.L.323, No.130), known as The County Code,

1 amended December 22, 2000 (P.L.1019, No.142), are amended to  
2 read:

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

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

15 (b) Written or telephonic price quotations from at least  
16 three qualified and responsible contractors shall be requested  
17 for all contracts that [exceed ~~four~~ thousand dollars (\$4,000)] ←

18 ARE IN EXCESS OF THE BASE AMOUNT OF ten thousand dollars ←  
19 (\$10,000) subject to annual adjustment under subsection (b.1)

20 but are less than the amount requiring advertisement and  
21 competitive bidding or, in lieu of price quotations, a  
22 memorandum shall be kept on file showing that fewer than three  
23 qualified contractors exist in the market area within which it  
24 is practicable to obtain quotations. A written record of  
25 telephonic price quotations shall be made and shall contain at  
26 least the date of the quotation, the name of the contractor and  
27 the contractor's representative, the construction,  
28 reconstruction, repair, maintenance or work which was the  
29 subject of the quotation and the price. Written price  
30 quotations, written records of telephonic price quotations and

memoranda shall be retained for a period of three years.

~~(b.1) (1) The Department of Labor and Industry shall 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.~~

(B.1) ADJUSTMENTS TO THE BASE AMOUNTS SPECIFIED UNDER SUBSECTIONS (A) AND (B) AND SECTIONS 1802, 1803 AND 2317 SHALL BE MADE AS FOLLOWS:

(1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE THE PERCENTAGE CHANGE IN THE ALL ITEMS CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) FOR THE UNITED STATES CITY AVERAGE AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS 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) IF THE DEPARTMENT DETERMINES THAT THERE IS NO POSITIVE PERCENTAGE CHANGE, THEN NO ADJUSTMENT TO THE BASE AMOUNTS SHALL OCCUR FOR THE RELEVANT TIME PERIOD PROVIDED FOR IN THIS SUBSECTION.

(3) (I) IF THE DEPARTMENT DETERMINES THAT THERE IS A POSITIVE PERCENTAGE CHANGE IN THE FIRST YEAR THAT THE

1 DETERMINATION IS MADE UNDER PARAGRAPH (1), THE POSITIVE  
2 PERCENTAGE CHANGE SHALL BE MULTIPLIED BY EACH BASE AMOUNT AND  
3 THE PRODUCTS SHALL BE ADDED TO THE BASE AMOUNTS, RESPECTIVELY,  
4 AND THE SUMS SHALL BE PRELIMINARY ADJUSTED AMOUNTS.

5 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO  
6 THE NEAREST ONE THOUSAND DOLLARS, TO DETERMINE THE FINAL  
7 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (B)  
8 AND SECTIONS 1802, 1803 AND 2317.

9 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE  
10 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY  
11 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY  
12 THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS  
13 SHALL BE ADDED TO THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS,  
14 RESPECTIVELY. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST  
15 ONE THOUSAND DOLLARS TO DETERMINE THE NEW FINAL ADJUSTED BASE  
16 AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (B) AND SECTIONS  
17 1802, 1803 AND 1807.

18 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS  
19 SUBSECTION SHALL BE MADE IN THE PERIOD BETWEEN OCTOBER 1 AND  
20 NOVEMBER 15 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS  
21 SUBSECTION, AND ANNUALLY BETWEEN OCTOBER 1 AND NOVEMBER 15 OF  
22 EACH YEAR THEREAFTER.

23 (6) THE FINAL ADJUSTED BASE AMOUNTS AND NEW FINAL ADJUSTED  
24 BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL BECOME  
25 EFFECTIVE JANUARY 1 FOR THE CALENDAR YEAR FOLLOWING THE YEAR IN  
26 WHICH THE DETERMINATION REQUIRED UNDER PARAGRAPH (1) IS MADE.

27 (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA  
28 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL  
29 PERCENTAGE CHANGE DETERMINED UNDER PARAGRAPH (1) AND THE  
30 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER

PARAGRAPHS (3) AND (4) FOR PURPOSES OF SUBSECTIONS (A) AND (B)  
AND SECTIONS 1802, 1803 AND 1807, RESPECTIVELY, FOR THE CALENDAR  
YEAR BEGINNING THE FIRST DAY OF JANUARY AFTER PUBLICATION OF THE  
NOTICE. THE NOTICE SHALL INCLUDE A WRITTEN AND ILLUSTRATIVE  
EXPLANATION OF THE CALCULATIONS PERFORMED BY THE DEPARTMENT IN  
ESTABLISHING THE UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS UNDER  
THIS SUBSECTION FOR THE ENSUING CALENDAR YEAR.

(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),] BASE AMOUNT OF twenty-five  
thousand dollars (\$25,000) 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)] THE BASE AMOUNT OF twenty-five thousand  
dollars (\$25,000) 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 transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received," shall not be

1 made except with and from the lowest responsible and responsive  
2 bidder submitting a bid in conformity with the specifications  
3 approved by the board of commissioners for the contract or  
4 purchase, after due notice in one newspaper of general  
5 circulation, published or circulating in the county, at least  
6 two times at intervals of not less than three days where daily  
7 newspapers of general circulation are employed for such  
8 publication, or in case weekly newspapers are employed then the  
9 notice shall be published once a week for two successive weeks.  
10 The first advertisement shall be published not less than ten  
11 days prior to the date fixed for the opening of bids. The  
12 requirements of this subsection need not be followed in cases of  
13 emergency, but in such cases the actual emergency shall be  
14 declared and stated by resolution of the commissioners.


15 \* \* \*

16 Section 2. ~~Section 1803~~ SECTIONS 1803 AND 2317 of the act, ←  
17 amended July 10, 1990 (P.L.379, No.89), ~~is~~ ARE amended to read: ←

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

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

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

25 SECTION 2317. SEPARATE BIDS FOR PLUMBING, HEATING,   
26 VENTILATING, ELECTRICAL WORK, ELEVATORS AND MOVING STAIRS.--IN  
27 THE PREPARATION OF SPECIFICATIONS FOR THE ERECTION, CONSTRUCTION  
28 AND ALTERATION OF ANY PUBLIC BUILDING, WHEN THE ENTIRE COST OF  
29 SUCH WORK SHALL EXCEED [TEN THOUSAND DOLLARS (\$10,000)] TWENTY-  
30 FIVE THOUSAND DOLLARS (\$25,000) SUBJECT TO ANNUAL ADJUSTMENT



1 UNDER SECTION 1801(B.1) THE ARCHITECT, ENGINEER OR OTHER PERSON  
2 PREPARING SUCH SPECIFICATIONS SHALL PREPARE ONLY THE FOLLOWING  
3 SEPARATE SPECIFICATIONS: (1) PLUMBING, (2) HEATING, (3)  
4 VENTILATING, (4) ELECTRICAL WORK, (5) ELEVATORS AND MOVING  
5 STAIRS, AND (6) ONE COMPLETE SET OF SPECIFICATIONS FOR ALL THE  
6 OTHER WORK TO BE DONE IN SUCH ERECTION, CONSTRUCTION AND  
7 ALTERATION. THE BOARD OF COMMISSIONERS SHALL RECEIVE SEPARATE  
8 BIDS UPON EACH OF THE SAID BRANCHES OF WORK AND AWARD THE  
9 CONTRACT FOR THE SAME TO THE LOWEST RESPONSIBLE BIDDER FOR EACH  
10 OF SAID BRANCHES, INCLUDING THE BALANCE OF THE WORK IN ADDITION  
11 TO THE PLUMBING, HEATING, VENTILATING AND ELECTRICAL WORK, AND  
12 ELEVATORS AND MOVING STAIRS. WHERE IT IS DESIRED TO INSTALL AN  
13 AIR CONDITIONING UNIT, THE HEATING AND VENTILATING SO INVOLVED  
14 MAY BE REGARDED AS ONE BRANCH OF WORK HAVING ONLY ONE SET OF  
15 SPECIFICATIONS, AND BIDS MAY BE RECEIVED AND A CONTRACT AWARDED  
16 THEREON, AS HEREINBEFORE PROVIDED.

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

20 Section 4. This act shall take effect immediately.