

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 287 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 May 28, 1937 (P.L.955, No.265), entitled, as
2 amended, "An act to promote public health, safety, morals,
3 and welfare by declaring the necessity of creating public
4 bodies, corporate and politic, to be known as housing
5 authorities to engage in slum clearance, and to undertake
6 projects, to provide dwelling accommodations for persons of
7 low income; providing for the organization of such housing
8 authorities; defining their powers and duties; providing for
9 the exercise of such powers, including the acquisition of
10 property by purchase, gift or eminent domain, the renting and
11 selling of property, and including borrowing money, issuing
12 bonds, and other obligations, and giving security therefor;
13 prescribing the remedies of obligees of housing authorities;
14 authorizing housing authorities to enter into agreements,
15 including agreements with the United States, the
16 Commonwealth, and political subdivisions and municipalities
17 thereof; defining the application of zoning, sanitary, and
18 building laws and regulations to projects built or maintained
19 by such housing authorities; exempting the property and
20 securities of such housing authorities from taxation; and
21 imposing duties and conferring powers upon the State Planning
22 Board, and certain other State officers and departments,"
23 further providing for awards of contracts, completion bond,
24 additional bond for protection of materialmen and others.

1 The General Assembly of the Commonwealth of Pennsylvania
2 hereby enacts as follows:

3 Section 1. Section 11 of the act of May 28, 1937 (P.L.955,
4 No.265), known as the Housing Authorities Law, amended or added
5 May 20, 1949 (P.L.1614, No.486), February 16, 1990 (P.L.67,
6 No.13) and November 21, 1990 (P.L.569, No.143), is amended to
7 read:

8 Section 11. Awards of Contracts; Completion Bond; Additional
9 Bond for Protection of Materialmen and Others.--

10 (a) Whenever the estimated cost of any construction,
11 erection, installation, completion, alteration, repair of, or
12 addition to, any project subject to the control of any Authority
13 shall exceed [ten thousand (\$10,000) dollars] twenty-five
14 thousand (\$25,000) dollars subject to annual adjustment under
15 subsection (b.3), it shall be the duty of said Authority to have
16 such work performed pursuant to a contract awarded to the lowest
17 responsible bidder, after advertisement for bids. Every such
18 contract shall contain a provision obligating the contractor to
19 the prompt payment of all material furnished, labor supplied or
20 performed, rental for equipment employed, and services rendered
21 by public utilities in or in connection with the prosecution of
22 the work, whether or not the said material, labor, equipment or
23 service enter into and become component parts of the work or
24 improvement contemplated. Such provision shall be deemed to be
25 included for the benefit of every person, copartnership,
26 association or corporation who, as subcontractor or otherwise,
27 has furnished material, supplied or performed labor, rented
28 equipment or services in or in connection with the prosecution
29 of the work as aforesaid, and the inclusion thereof in any
30 contract shall preclude the filing by any such person,

1 copartnership, association or corporation of any mechanics' lien
2 claim for such material, labor or rental of equipment.

3 (b) Whenever the estimated cost of any purchase of supplies,
4 materials or equipment or the rental of any equipment, whether
5 or not the same is to be used in connection with the
6 construction, erection, installation, completion, alteration,
7 repair of, or addition to, any project subject to the control of
8 any Authority, shall exceed [ten thousand (\$10,000) dollars]
9 twenty-five thousand (\$25,000) dollars subject to annual
10 adjustment under subsection (b.3), it shall be the duty of such
11 Authority to have such purchase or rental made pursuant to a
12 contract awarded to the lowest responsible bidder, after
13 advertisement for bids, such advertisement to be inserted in a
14 newspaper of general circulation within the county in which the
15 Authority operates.

16 (b.1) An authority shall not evade the provisions of
17 subsection (a) or (b) as to advertising for bids by purchasing
18 materials or contracting for services piecemeal for the purpose
19 of obtaining prices under [ten thousand (\$10,000) dollars]
20 twenty-five thousand (\$25,000) dollars subject to annual
21 adjustment under subsection (b.3) upon transactions which
22 should, in the exercise of reasonable discretion and prudence,
23 be conducted as one transaction amounting to more than [ten
24 thousand (\$10,000) dollars] twenty-five thousand (\$25,000)
25 dollars subject to annual adjustment under subsection (b.3).
26 This provision is intended to make unlawful the practice of
27 evading advertising requirements by making a series of purchases
28 or contracts, each for less than the advertising requirement
29 price, or by making several simultaneous purchases or contracts,
30 each below said price, when, in either case, the transactions

involved should have been made as one transaction for one price.

(b.2) Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts that exceed [four thousand (\$4,000) dollars] ten thousand (\$10,000) dollars subject to annual adjustment under subsection (b.3) but are less than the amount requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

(b.3) (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.2) shall be adjusted annually as follows:

(i) In the case of competitive bidding, the positive percentage change, as determined in accordance with clause (1), shall be multiplied by the amount applicable under subsection

1 (a) for the current year and the product thereof shall be added
2 to the amount applicable under subsection (a) for the current
3 year, with the result rounded to the nearest multiple of ten
4 (\$10) dollars.

5 (ii) In the case of written or telephonic price quotations,
6 the positive percentage change, as determined in accordance with
7 clause (1), shall be multiplied by the amount applicable under
8 subsection (b.2) for the current year and the product thereof
9 shall be added to the amount applicable under subsection (b.2)
10 for the current year, with the result rounded to the nearest
11 multiple of ten (\$10) dollars.

12 (3) The annual determination required under clause (1) and
13 the calculation of the adjustments required under clause (2)
14 shall be made in the period between October 1 and November 15 of
15 the year following the effective date of this subsection, and
16 annually between October 1 and November 15 of each successive
17 year.

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

22 (5) The Department of Labor and Industry shall give notice
23 in the Pennsylvania Bulletin prior to January 1 of each calendar
24 year of the annual percentage change determined in accordance
25 with clause (1) and the amounts, whether adjusted or unadjusted
26 in accordance with clause (2), at which competitive bidding is
27 required under subsection (a) and written or telephonic price
28 quotations are required under subsection (b.2) for the calendar
29 year beginning the first day of January after publication of the
30 notice.

1 (c) A housing authority shall require as a condition of the
2 award of any contract, pursuant to subsection (a) or (b) of this
3 section, that the contractor give to the Authority any bond
4 (including bonds for the performance of the contract, and for
5 the prompt payment by the contractor for material, supplies,
6 labor, services and equipment) which are prescribed by law for
7 contracts awarded by cities or counties, as the case may be, of
8 the same class as the city or county for which such Authority
9 has been created.

10 (d) Notwithstanding anything to the contrary contained in
11 this act or in any other provision of law, a housing authority
12 may include, in any contract let in connection with a project,
13 stipulations requiring that the contractor and any
14 subcontractors comply with requirements as to minimum wages and
15 maximum hours of labor, and comply with any conditions which the
16 Federal or State Government may have attached to its financial
17 aid of the project.

18 (e) Every Authority awarding contracts or requiring the
19 delivery of bonds pursuant to this section shall keep an exact
20 copy of every contract awarded or bond delivered upon file at
21 its principal office. Subject to regulations to be prescribed by
22 the State Planning Board for their safe keeping such copies
23 shall be opened to public inspection.

24 (f) Any authority member who votes to unlawfully evade the
25 provisions of this section and who knows that the transaction
26 upon which he so votes is or ought to be a part of a larger
27 transaction and that it is being divided in order to evade the
28 requirements as to advertising for bids commits a misdemeanor of
29 the third degree for each contract entered into as a direct
30 result of that vote.

1 Section 2. This act shall apply to contracts and purchases
2 advertised on or after January 1 of the year following the
3 effective date of this section.

4 Section 3. This act shall take effect immediately.