
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2901 Session of
2022

INTRODUCED BY O'NEAL, KAIL, HERSHEY, JOZWIAK, PENNYCUICK,
NEILSON, TWARDZIK AND CIRESI, OCTOBER 25, 2022

REFERRED TO COMMITTEE ON STATE GOVERNMENT, OCTOBER 25, 2022

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, in procurement organization, further providing for
3 powers and duties and providing for limited contract
4 adjustment due to construction material price escalation.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 321 of Title 62 of the Pennsylvania
8 Consolidated Statutes is amended by adding a paragraph to read:
9 § 321. Powers and duties.

10 Except as otherwise specifically provided in this part, the
11 department shall have the following powers and duties:

12 * * *

13 (7) Adjust the prices of construction material line
14 items within a contract subject to the provisions and
15 limitations of section 323 (relating to limited contract
16 adjustment due to construction material price escalation).

17 Section 2. Title 62 is amended by adding a section to read:

18 § 323. Limited contract adjustment due to construction material
19 price escalation.

1 (a) General rule.--Notwithstanding the provisions of section
2 534 (relating to cost or pricing data), if the terms and
3 conditions of a contract awarded by a Commonwealth agency
4 require a contractor to furnish construction materials, the
5 terms and conditions may be adjusted by the department upon a
6 determination by the department that there has been an increase
7 in the cost of acquisition by the contractor, subcontractor or
8 supplier of materials. Adjustments under this section shall be
9 subject to the following conditions:

10 (1) The bid for the contract was submitted no earlier
11 than March 15, 2020.

12 (2) The bid for the contract was submitted no later than
13 the effective date of this section.

14 (3) At the time of the contractor or subcontractor's
15 application for contract adjustment, the cost of acquisition
16 of construction materials by the contractor, subcontractor or
17 supplier of materials has increased in excess of 5% since the
18 time of the contract award. A determination shall be made by
19 the department and shall be based upon available evidence,
20 including a nationally recognized economic index published by
21 the United States Department of Labor.

22 (b) Application.--The department shall establish a process
23 for applications for contract adjustment to be submitted by a
24 contractor or subcontractor within 30 days of the effective date
25 of this section. The department shall:

26 (1) Prescribe the form of the application for a contract
27 adjustment under this section.

28 (2) Require applications for a contract adjustment under
29 this section to include sufficient documentary evidence, as
30 determined by the department, that the contract conforms to

1 the conditions specified in subsection (a).

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