

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 635

Session of  
1987

INTRODUCED BY GODSHALL, LLOYD, KUKOVICH, OLASZ, WOGAN, MRKONIC,  
D. W. SNYDER, YANDRISEVITS, NOYE, BATTISTO, FOX, DISTLER,  
CARLSON, PRESSMANN, TRELLO, HERSHEY, VROON, WOZNIAK,  
COLAFELLA, BALDWIN, HECKLER, LANGTRY AND PHILLIPS, MARCH 9,  
1987

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 9, 1987

AN ACT

1 Amending the act of July 28, 1953 (P.L.723, No.230), entitled,  
2 as amended, "An act relating to counties of the second class  
3 and second class A; amending, revising, consolidating and  
4 changing the laws relating thereto," restricting certain  
5 persons from bidding on contracts.

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

8 Section 1. Section 2001 of the act of July 28, 1953  
9 (P.L.723, No.230), known as the Second Class County Code, is  
10 amended by adding subsections to read:

11 Section 2001. County Commissioners to Make Contracts.--The  
12 County Commissioners may make contracts for lawful purposes and  
13 for the purposes of carrying into execution the provisions of  
14 this section and the laws of the Commonwealth.

15 \* \* \*

16 (g) No person who or entity which, as a contractor or  
17 subcontractor, supplied goods or services to a government or  
18 government instrumentality and has been convicted of, or has

pleaded guilty or nolo contendere to, a Federal or State crime involving fraud upon a government or a government instrumentality for acts or omissions arising out of the supplying of goods or services, and no entity in which that person or entity has a substantial interest, may bid on a contract for a period of three (3) years after such conviction or plea. For purposes of this subsection, the following words and phrases shall have the following meanings:

(1) "Crime" means any criminal act committed after the effective date of this amendatory act for which the maximum possible penalty exceeds a fine of three hundred dollars (\$300) or exceeds imprisonment for ninety (90) days.

(2) "Entity" means any association, corporation, limited partnership, partnership, or other business or nonprofit organization.

(3) "Fraud" includes, but is not limited to:

(i) A misrepresentation of a material fact that is not made honestly and in good faith.

(ii) A promise, representation or prediction as to the future that is not made honestly and in good faith.

(iii) An intentional failure to disclose a material fact.

(iv) A fictitious or pretended purchase or sale of a security.

(v) The gaining, through the sale of a security, of an underwriting or promotion fee or profit or a selling or managing fee or profit that is so gross or exorbitant as to be unconscionable, including a scheme, device or artifice to obtain such a profit, fee or commission.

(vi) A scheme, device or artifice to defraud a prospective or actual customer, client or subscriber of securities, money or

1 property.

2 (4) "State" means the District of Columbia and any  
3 possession, state, territory or trusteeship of the United  
4 States.

5 (5) "Substantial interest" means serving as a director,  
6 limited partner, officer, partner or proprietor, or owning more  
7 than ten per centum (10%) of the number of shares of voting  
8 stock or more than twenty per centum (20%) of the total number  
9 of shares of stock.

10 (h) In the case of a bid involving the collection,  
11 transportation, treatment, storage or disposal of solid waste or  
12 hazardous waste under the act of July 7, 1980 (P.L.380, No.97),  
13 known as the Solid Waste Management Act, the following shall  
14 apply:

15 (1) A bid may be rejected by the county commissioners if:

16 (i) the county commissioners have reason to believe that the  
17 bidder's responsibility, character and general fitness for  
18 business do not command the confidence of the public and may not  
19 be conducive to the honest and efficient conduct of business in  
20 the best interest of the public; or

21 (ii) the bidder's prior performance record in the  
22 collection, transportation, treatment, storage or disposal of  
23 solid waste exhibited insufficient reliability, expertise or  
24 competency to warrant the belief that the bidder would be likely  
25 to exhibit sufficient reliability, expertise or competence with  
26 respect to the contract being bid.

27 (2) The county may require the following information to be  
28 submitted with the bid:

29 (i) if the bidder has an equity interest in a company which  
30 collects, transports, treats, stores or disposes of solid waste

or hazardous waste, the name and address of that company;

(ii) a description of the bidder's experience and  
credentials in collection, transportation, treatment, storage or  
disposal of solid waste or hazardous waste, including past or  
present licenses;

(iii) if the bidder is an entity, the names of the officers  
and directors or partners;

(iv) a list and explanation of Federal, State and local  
notices of violation, prosecutions, administrative orders and  
license revocations, for the ten (10) years immediately  
preceding the bid submission, if the action is pending or has  
resulted in a finding or a settlement of a violation of law by  
the bidder or its employes, and, in the case of an entity, by an  
officer or director or a partner, relating to the collection,  
transportation, treatment, storage or disposal of solid waste or  
hazardous waste;

(v) a list and explanation of judgments of civil liability  
and convictions against the bidder or its employes and, in the  
case of an entity, against an officer or director or a partner;

(vi) a list of agencies outside of this Commonwealth which  
had regulatory authority over the bidder in connection with the  
collection, transportation, treatment, storage or disposal of  
solid waste or hazardous waste; and

(vii) other information that the county commissioners deem  
relevant to the competency, reliability or good character of the  
bidder.

(i) The county may require the following information to be  
submitted with the bid: a sworn statement by the bidder and, if  
the affiant is an entity, by every person or entity having a  
substantial interest therein, listing all Federal and state

1 convictions of, and pleas of guilty or nolo contendere to, any  
2 crime within three (3) years prior to the date of the statement,  
3 said statement to be dated no more than one (1) week prior to  
4 the date set for the opening of bids.

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