

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1862 Session of 2005

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INTRODUCED BY HARPER, HERMAN, LESCOVITZ, BIANCUCCI, HANNA, ROSS,  
HARHAI, HICKERNELL, O'NEILL, KAUFFMAN, HENNESSEY, M. KELLER,  
PETRI, T. STEVENSON, McNAUGHTON, GINGRICH, ARMSTRONG,  
BALDWIN, BOYD, CAPPELLI, DALLY, DENLINGER, DeWEESE, FRANKEL,  
GEIST, HARRIS, HERSHEY, McILHATTAN, PHILLIPS, PICKETT,  
SCAVELLO AND WATSON, JULY 3, 2005

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AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF  
REPRESENTATIVES, AS AMENDED, DECEMBER 6, 2005

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### AN ACT

1 Amending the act of August 6, 1936 (Sp.Sess., P.L.95, No.38  
2 1/2), entitled "An act to authorize and empower cities,  
3 boroughs, towns, and townships, separately or jointly, to  
4 provide for protection against floods by erecting and  
5 constructing certain works and improvements, located within  
6 or without their territorial limits, and within or without  
7 the county in which situate; and to expend moneys and incur  
8 indebtedness; to assess benefits against property benefited;  
9 to issue improvement bonds imposing no municipal liability;  
10 and to acquire, take, injure or destroy property for such  
11 purposes," further providing for competitive bidding of  
12 contracts.

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

15 Section 1. Section 3 of the act of August 6, 1936 (Sp.Sess.,  
16 P.L.95, No.38 1/2), entitled "An act to authorize and empower  
17 cities, boroughs, towns, and townships, separately or jointly,  
18 to provide for protection against floods by erecting and  
19 constructing certain works and improvements, located within or  
20 without their territorial limits, and within or without the

1 county in which situate; and to expend moneys and incur  
2 indebtedness; to assess benefits against property benefited; to  
3 issue improvement bonds imposing no municipal liability; and to  
4 acquire, take, injure or destroy property for such purposes,"  
5 amended July 10, 1990 (P.L.402, No.97), is amended to read:

6 Section 3. (a) No such works or improvements, involving an  
7 expenditure by any municipality or municipalities of more than  
8 [ten thousand dollars (\$10,000)] ~~twenty five thousand dollars~~ <—  
9 ~~(\$25,000)~~ EIGHTEEN THOUSAND DOLLARS (\$18,000), subject to <—  
10 adjustment under subsection (b.1), shall be erected, constructed  
11 or provided, except by contract let to the lowest responsible  
12 bidder after due advertisement, once a week for two successive  
13 weeks in at least one newspaper of general circulation:  
14 Provided, however, That no contract shall be required to be let  
15 for the performance of the work on any such work or improvement  
16 where the cost of the labor shall be paid by the Federal  
17 Government, or any agency thereof, without cost to the  
18 municipality or municipalities.

19 (b) Written or telephonic price quotations from at least  
20 three qualified and responsible contractors shall be requested  
21 for all contracts that exceed [four thousand dollars (\$4,000)]  
22 ~~ten thousand dollars (\$10,000)~~ SEVEN THOUSAND DOLLARS (\$7,000), <—  
23 subject to adjustment under subsection (b.1), but are less than  
24 the amount requiring advertisement and competitive bidding or,  
25 in lieu of price quotations, a memorandum shall be kept on file  
26 showing that fewer than three qualified contractors exist in the  
27 market area within which it is practicable to obtain quotations.  
28 A written record of telephonic price quotations shall be made  
29 and shall contain at least the date of the quotation, the name  
30 of the contractor and the contractor's representative, the

1 construction, reconstruction, repair, maintenance or work which  
2 was the subject of the quotation and the price. Written price  
3 quotations, written records of telephonic price quotations and  
4 memoranda shall be retained for a period of three years.

5 (b.1) Adjustments shall be made as follows:

6 ~~(1) The Department of Labor and Industry shall determine the~~ <—  
7 ~~percentage change in the Consumer Price Index for All Urban~~  
8 ~~Consumers for the twelve month period ending September 30 of the~~  
9 ~~calendar year in which this subsection becomes effective, and~~  
10 ~~for each successive twelve month period thereafter.~~

11 (1) ANNUALLY, BEGINNING WITH THE YEAR IN WHICH THIS <—  
12 SUBSECTION BECOMES APPLICABLE TO CONTRACTS AND PURCHASES, THE  
13 DEPARTMENT OF LABOR AND INDUSTRY SHALL CALCULATE THE PERCENTAGE  
14 CHANGE IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-  
15 U) FOR THE UNITED STATES CITY AVERAGE FOR ALL ITEMS AS PUBLISHED  
16 BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR  
17 STATISTICS, FOR THE TWELVE-MONTH AVERAGE ENDING IN SEPTEMBER OF  
18 THE PRIOR YEAR.

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

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

30 (ii) In the case of written or telephonic price quotations,

1 the positive percentage change, as determined in accordance with  
2 paragraph (1), shall be multiplied by the amount applicable  
3 under subsection (b) for the current year and the product  
4 thereof shall be added to the amount applicable under subsection  
5 (b) for the current year, with the result rounded to the nearest  
6 multiple of ten dollars (\$10).

7 (3) The annual determination required under paragraph (1)  
8 and the calculation of the adjustments required under paragraph  
9 (2) shall be made in the period between October 1 and November  
10 15 of the year following the effective date of this subsection,  
11 and annually between October 1 and November 15 of each  
12 successive year.

13 (4) The adjusted amounts obtained in accordance with  
14 paragraph (2) shall become effective January 1 for the calendar  
15 year following the year in which the determination required  
16 under paragraph (1) is made.

17 (5) The department shall give notice in the Pennsylvania  
18 Bulletin prior to January 1 of each calendar year of the annual  
19 percentage change determined in accordance with paragraph (1)  
20 and the amounts, whether adjusted or unadjusted in accordance  
21 with paragraph (2), at which competitive bidding is required  
22 under subsection (a) and written or telephonic price quotations  
23 are required under subsection (b) for the calendar year  
24 beginning the first day of January after publication of the  
25 notice.

26 (c) No municipality shall evade the provisions of this  
27 section as to advertising for bids or purchasing materials or  
28 contracting for services piecemeal for the purpose of obtaining  
29 prices under [ten thousand dollars (\$10,000)] the amount  
30 required by this section upon transactions which should, in the

1 exercise of reasonable discretion and prudence, be conducted as  
2 one transaction amounting to more than [ten thousand dollars  
3 (\$10,000)] the amount required by this section. This provision  
4 is intended to make unlawful the practice of evading advertising  
5 requirements by making a series of purchases or contracts each  
6 for less than the advertising requirement price or by making  
7 several simultaneous purchases or contracts each below said  
8 price, when in either case the transaction involved should have  
9 been made as one transaction for one price.

10 (d) Any member of a governing body of a municipality who  
11 votes to unlawfully evade the provisions of this section and who  
12 knows that the transaction upon which he so votes is or ought to  
13 be a part of a larger transaction and that it is being divided  
14 in order to evade the requirements as to advertising for bids  
15 commits a misdemeanor of the third degree for each contract  
16 entered into as a direct result of that vote.

17 (e) Every contract for the construction, reconstruction,  
18 alteration, repair, improvement or maintenance of public works  
19 shall comply with the provisions of the act of March 3, 1978  
20 (P.L.6, No.3), known as the "Steel Products Procurement Act."

21 Section 2. The amendment of section 3 of the act shall apply  
22 to contracts and purchases advertised after December 31 of the  
23 year in which this section takes effect.

24 Section 3. This act shall take effect immediately.