

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2192 Session of
2008

INTRODUCED BY GILLESPIE, BOYD, CREIGHTON, CUTLER, DENLINGER,
EVERETT, GINGRICH, GRELL, HELM, HICKERNELL, KAUFFMAN,
M. KELLER, MACKERETH, R. MILLER, REICHLEY, ROHRER, STEIL,
SWANGER AND TURZAI, JANUARY 23, 2008

REFERRED TO COMMITTEE ON EDUCATION, JANUARY 23, 2008

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," providing for exemption from certain
6 act; further providing for work to be done under contract let
7 on bids, for contracts for light, heat or water and for
8 purchase of supplies; and further providing for list of names
9 for schools.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
13 as the Public School Code of 1949, is amended by adding a
14 section to read:

15 Section 103.1. Exemption.--The requirements of the act of
16 May 1, 1913 (P.L.155, No.104), entitled "An act regulating the
17 letting of certain contracts for the erection, construction, and
18 alteration of public buildings," shall not apply to any person,
19 entity, contract or activity provided for by this act, and this
20 section shall supersede any requirements or references in this

1 act or any act.

2 Section 2. Section 751 of the act, amended July 13, 1979
3 (P.L.94, No.41), October 10, 1980 (P.L.924, No.159) and May 4,
4 1990 (P.L.164, No.38), is amended to read:

5 Section 751. Work to be Done Under Contract Let on Bids;
6 Exception.--(a) All construction, reconstruction, repairs,
7 maintenance or work of any nature, including the introduction of
8 plumbing, heating and ventilating, or lighting systems, upon any
9 school building or upon any school property, or upon any
10 building or portion of a building leased under the provisions of
11 section 703.1, made by any school district, where the entire
12 cost, value, or amount of such construction, reconstruction,
13 repairs, maintenance or work, including labor and material,
14 shall exceed [ten thousand dollars (\$10,000), shall] seventy-
15 five thousand dollars (\$75,000), may be done under separate
16 contracts to be entered into by such school district with the
17 lowest responsible bidder, upon proper terms, after due public
18 notice has been given asking for competitive bids. Whenever a
19 board of school directors shall approve the use of a
20 prefabricated unit, complete in itself, for a school building or
21 other proper structure to be erected upon school property, the
22 board of school directors may have prepared appropriate
23 specifications detailing the size and material desired in a
24 particular prefabricated unit, including all utilities such as
25 plumbing, heating and ventilating, and electrical work, and may
26 advertise for a single bid on all the work and award the
27 contract therefor to the lowest responsible bidder: Provided,
28 That if due to an emergency a school plant or any part thereof
29 becomes unusable competitive bids for repairs or replacement may
30 be solicited from at least three responsible bidders, and upon

1 the approval of any of these bids by the Secretary of Education,
2 the board of school directors may proceed at once to make the
3 necessary repairs or replacements in accordance with the terms
4 of said approved bid or bids.

5 (a.1) Written or telephonic price quotations from at least
6 three qualified and responsible contractors shall be requested
7 by the board of school directors for all contracts that exceed
8 [four thousand dollars (\$4,000)] twenty-five thousand dollars
9 (\$25,000) but are less than the amount requiring advertisement
10 and competitive bidding, or, in lieu of price quotations, a
11 memorandum shall be kept on file showing that fewer than three
12 qualified contractors exist in the market area within which it
13 is practicable to obtain quotations. A written record of
14 telephonic price quotations shall be made and shall contain at
15 least the date of the quotation, the name of the contractor and
16 the contractor's representative, the construction,
17 reconstruction, repair, maintenance or work which was the
18 subject of the quotation and the price. Written price
19 quotations, written records of telephonic price quotations and
20 memoranda shall be retained for a period of three years.

21 (b) The board of school directors in any school district may
22 perform any construction, reconstruction, repairs, or work of
23 any nature, where the entire cost or value, including labor and
24 material, is less than [five thousand dollars (\$5000)] twenty-
25 five thousand dollars (\$25,000), by its own maintenance
26 personnel. The board of school directors in any school district
27 may authorize the secretary of the board or other executive to
28 award contracts for construction, reconstruction, repairs, or
29 work of any nature, where the entire cost or value, including
30 labor and material, is [ten thousand dollars (\$10,000)] seventy-

1 five thousand dollars (\$75,000) or less, without soliciting
2 competitive bids, subject, however, to the provisions of
3 subsection (a.1).

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

8 (d) The board of school directors of any school district
9 may, in addition to the power granted in subsection (b), utilize
10 also its own maintenance or other personnel to perform
11 maintenance work irrespective of the entire cost or value of
12 such work.

13 (e) No person, consultant, firm or corporation contracting
14 with a school district for purposes of rendering personal or
15 professional services to the school district shall share with
16 any school district officer or employe, and no school district
17 officer or employe shall accept, any portion of the compensation
18 or fees paid by the school district for the contracted services
19 provided to the school district except under the following terms
20 or conditions:

21 (1) Full disclosure of all relevant information regarding
22 the sharing of the compensation or fees shall be made to the
23 board of school directors.

24 (2) The board of school directors must approve the sharing
25 of any fee or compensation for personal or professional services
26 prior to the performance of said services.

27 (3) No fee or compensation for personal or professional
28 services may be shared except for work actually performed.

29 (4) No shared fee or compensation for personal or
30 professional services may be paid at a rate in excess of that

1 commensurate for similar personal or professional services.

2 (f) No board of school directors shall evade the provisions
3 of this section as to advertising for bids or purchasing
4 materials or contracting for services piecemeal for the purpose
5 of obtaining prices under [ten thousand dollars (\$10,000)]
6 seventy-five thousand dollars (\$75,000) upon transactions which
7 should, in the exercise of reasonable discretion and prudence,
8 be conducted as one transaction amounting to more than [ten
9 thousand dollars (\$10,000)] seventy-five thousand dollars
10 (\$75,000). This provision is intended to make unlawful the
11 practice of evading advertising requirements by making a series
12 of purchases or contracts each for less than the advertising
13 requirement price, or by making several simultaneous purchases
14 or contracts each below said price, when in either case the
15 transaction involved should have been made as one transaction
16 for one price.

17 Section 3. Section 773 of the act, amended May 11, 1949
18 (P.L.1115, No.329), is amended to read:

19 Section 773. Contracts for Light, Heat or Water; Acquiring
20 Water Supply; Condemnation; Tapping District Water Lines.--(a)
21 The board of school directors in any school district may, in the
22 manner herein provided, enter into any contract with any person,
23 firm, association, or corporation, for the furnishing of light,
24 heat, or water to such school district, for any term not
25 exceeding [five] ten years. The amount to become due and payable
26 thereon, under such contract, may be distributed equally during
27 the years over which the same extends, and only so much thereof
28 as becomes due and payable in any one year need be provided for
29 in the annual estimate of school expenses for any school year,
30 and be certified to by any school controller.

1 (b) In any case where any school building to be supplied
2 with water is not sufficiently near to the pipe lines of any
3 water company to enable the school district to avail itself of
4 such supply and another source of supply is available nearer to
5 such school building, the board of school directors may acquire
6 such supply, or any part thereof deemed necessary, and may lay
7 and construct a pipe line to convey water from such source of
8 supply to such school building, and, for such purpose, may enter
9 upon, occupy and use any highway or public or private property
10 which it deems necessary. In the event that compensation
11 therefor cannot be agreed upon with any owner of private
12 property so acquired, occupied and used, the amount thereof
13 shall be determined in the manner provided in sections seven
14 hundred twenty-one to seven hundred twenty-eight, both
15 inclusive, of this article.

16 (c) In any case where a school district has constructed a
17 water pipe line for the supply of water to any school building
18 and such supply is more than adequate for such purpose, the
19 board of school directors may, subject to such terms as may be
20 agreed on, permit the tapping of such pipe line by any adjacent
21 community having no other available public water supply.

22 Section 4. Section 807.1 of the act, amended May 4, 1990
23 (P.L.164, No.38), is amended to read:

24 Section 807.1. Purchase of Supplies.--(a) All furniture,
25 equipment, textbooks, school supplies and other appliances for
26 the use of the public schools, costing [ten thousand dollars
27 (\$10,000)] fifty thousand dollars (\$50,000) or more shall be
28 purchased by the board of school directors only after due
29 advertisement as hereinafter provided. Supplies costing [ten
30 thousand dollars (\$10,000)] fifty thousand dollars (\$50,000) or

1 more shall be purchased by the board of school directors only
2 after public notice has been given by advertisement once a week
3 for three (3) weeks in not less than two (2) newspapers of
4 general circulation. In any district where no newspaper is
5 published, said notice may, in lieu of such publication, be
6 posted in at least five (5) public places.

7 (a.1) Written or telephonic price quotations from at least
8 three qualified and responsible vendors shall be requested by
9 the board of school directors for all purchases of supplies that
10 exceed [four thousand dollars (\$4,000)] twenty-five thousand
11 dollars (\$25,000) but are less than the amount requiring
12 advertisement and competitive bidding, or, in lieu of price
13 quotations, a memorandum shall be kept on file showing that
14 fewer than three qualified vendors exist in the market area
15 within which it is practicable to obtain quotations. A written
16 record of telephonic price quotations shall be made and shall
17 contain at least the date of the quotation, the name of the
18 vendor and the vendor's representative, the supplies which were
19 the subject of the quotation and the price of the supplies.
20 Written price quotations, written records of telephonic price
21 quotations and memoranda shall be retained for a period of three
22 years.

23 (b) The board of school directors shall accept the bid of
24 the lowest responsible bidder, kind, quality, and material being
25 equal, but shall have the right to reject any and all bids, or
26 select a single item from any bid. The board of school directors
27 in any district may authorize or appoint the secretary of the
28 board or other executive as purchasing agent for the district,
29 with authority to purchase supplies costing less than [ten
30 thousand dollars (\$10,000)] fifty thousand dollars (\$50,000).

1 (c) The following shall be exempt from the above provisions:
2 maps, music, globes, charts, educational films, filmstrips,
3 prepared transparencies and slides, pre-recorded magnetic tapes
4 and disc recordings, textbooks, games, toys, prepared kits,
5 flannel board materials, flash cards, models, projectuals and
6 teacher demonstration devices necessary for school use.

7 (d) No board of school directors shall evade the provisions
8 of this section as to advertising for bids or purchasing
9 materials piecemeal for the purpose of obtaining prices under
10 [ten thousand dollars (\$10,000)] fifty thousand dollars
11 (\$50,000) upon transactions which should, in the exercise of
12 reasonable discretion and prudence, be conducted as one
13 transaction amounting to more than [ten thousand dollars
14 (\$10,000)] fifty thousand dollars (\$50,000). This provision is
15 intended to make unlawful the practice of evading advertising
16 requirements by making a series of purchases or contracts each
17 for less than the advertising requirement price, or by making
18 several simultaneous purchases or contracts each below said
19 price, when in either case the transaction involved should have
20 been made as one transaction for one price.

21 Section 5. Section 1352 of the act is amended to read:

22 Section 1352. List of Names for Schools; Statistics for
23 [Superintendent of Public Instruction] Secretary of Education.--
24 The secretary of each board of school directors, or such other
25 person as is directed by the board, shall, at or before the
26 opening of the school term, furnish to the principal or teacher
27 of each school a correct list of the names and residences of all
28 children, assigned to such school, who are subject to the
29 provisions of this act. The secretary or other person shall also
30 forward, on or before the first day of October [of each year]

1 2007, and every three years thereafter, to the county or
2 district superintendent, to be by him forwarded, on or before
3 the first day of November [of each year] 2007, and every three
4 years thereafter, to the [Superintendent of Public Instruction]
5 Secretary of Education, a summary of such statistics regarding
6 the children in each district, as is required by the
7 [Superintendent of Public Instruction] Secretary of Education,
8 on blanks provided by him for that purpose.

9 Section 6. This act shall take effect in 60 days.