

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 293 Session of
2011

INTRODUCED BY BRUBAKER, EICHELBERGER, KASUNIC, FOLMER, GORDNER,
BOSCOLA, ORIE, RAFFERTY, YAW, M. WHITE, D. WHITE, ERICKSON,
BAKER, ALLOWAY, GREENLEAF, SMUCKER, FERLO, ROBBINS, VANCE,
EARLL, SCARNATI, McILHINNEY, PICCOLA, MENSCH AND BROWNE,
JANUARY 26, 2011

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 26, 2011

AN ACT

1 Amending the act of July 5, 1947 (P.L.1217, No.498), entitled
2 "An act to promote the education and educational facilities
3 of the people of the Commonwealth of Pennsylvania; creating a
4 State Public School Building Authority as a body corporate
5 and politic with power to construct, improve and operate
6 projects and to lease the same and to fix and collect fees,
7 rentals and charges for the use thereof; authorizing school
8 districts to enter into contracts to lease; authorizing and
9 regulating the issuance of bonds by said Authority; and
10 providing for the payment of such bonds and the rights of the
11 holders thereof; granting the right of eminent domain;
12 increasing the powers and duties of the Department of Public
13 Instruction; and providing that no debt of the Commonwealth
14 shall be incurred in the exercise of any of eminent domain;
15 increasing the powers and duties of the Department of Public
16 Instruction; and providing that no debt of the Commonwealth
17 shall be incurred in the exercise of any of the powers
18 granted under this act; and making an appropriation to said
19 Authority to pay expenses incident to its formation," further
20 providing for competitive bidding of contracts; ~~and providing~~ ←
21 ~~for evasion of advertising requirements.~~

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. Section 10 of the act of July 5, 1947 (P.L.1217,
25 No.498), known as the State Public School Building Authority
26 Act, amended April 20, 1949 (P.L.636, No.142), October 4, 1978

1 (P.L.1024, No.227) and December 22, 1981 (P.L.554, No.164), is
2 amended to read:

3 Section 10. Competition in Award of Contracts.--(a) If any
4 project or any portion thereof, or any improvement thereof,
5 shall be constructed pursuant to a contract, and the estimated
6 cost thereof exceeds [four thousand dollars (\$4,000)] the base
7 amount of eighteen thousand five hundred dollars (\$18,500),
8 subject to adjustment under subsection (b), such contract shall
9 be awarded to the lowest responsible bidder after advertisement
10 for bids once a week for three weeks in at least one newspaper
11 of general circulation in the county where the project or
12 improvement is located. The authority may make rules and
13 regulations for the submission of bids and the construction or
14 improvement of any project or portion thereof. No contract shall
15 be entered into for construction or improvement of any project
16 or portion thereof, or for the purchase of materials, unless the
17 contractor shall give an undertaking with a sufficient surety or
18 sureties approved by the Authority, and in an amount fixed by
19 the Authority, for the faithful performance of the contract, and
20 such contract shall be accompanied by an additional bond for the
21 protection of those who furnish labor and material, for such
22 amount and subject to the same terms and conditions as
23 recommended by The Administrative Code of one thousand nine
24 hundred twenty-nine, as amended, on contracts entered into by
25 the Department of General Services for the erection of
26 buildings. All construction contracts shall provide, among other
27 things, that the person or corporation entering into such
28 contract with the Authority will pay for all materials furnished
29 and services rendered, for the performance of the contract, and
30 that any person or corporation furnishing such materials or

1 rendering such services may maintain an action to recover for
2 the same against the obligor in the undertaking as though such
3 person or corporation was named therein, provided the action is
4 brought within one year after the time the cause of action
5 accrued. Nothing in this section shall be construed to limit the
6 power of the Authority to construct any project or portion
7 thereof or any addition, betterment or extension thereto,
8 directly by the officers, agents and employes of the Authority,
9 or otherwise than by contract.

10 Subject to the aforesaid, the Authority may (but without
11 intending by this provision to limit any powers of such
12 Authority), enter into and carry out such contracts, or
13 establish or comply with such rules and regulations concerning
14 labor and materials and other related matters in connection with
15 any project or portion thereof as the Authority may deem
16 desirable, or as may be requested by any Federal agency that may
17 assist in the financing of such project or any part thereof.

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

22 (b) Adjustments to the base amounts specified under
23 subsection (a) shall be made as follows:

24 (1) The Department of Labor and Industry shall determine the
25 percentage change in the All Items Consumer Price Index for All
26 Urban Consumers (CPI-U) for the United States City Average as
27 published by the United States Department of Labor, Bureau of
28 Labor Statistics for the twelve-month period ending September
29 30, 2012, and for each successive twelve-month period
30 thereafter.

1 (2) If the department determines that there is no positive
2 percentage change, then no adjustment to the base amounts shall
3 occur for the relevant time period provided for in this
4 subsection.

5 (3) (i) If the department determines that there is a
6 positive percentage change in the first year that the
7 determination is made under paragraph (1), the positive
8 percentage change shall be multiplied by each base amount and
9 the products shall be added to the base amounts, respectively,
10 and the sums shall be preliminary adjusted amounts.

11 (ii) The preliminary adjusted amounts shall be rounded to
12 the nearest one thousand dollars ~~(\$1,000)~~ HUNDRED DOLLARS ←
13 (\$100), to determine the final adjusted base amounts for
14 purposes of subsection (a).

15 (4) In each successive year in which there is a positive
16 percentage change in the CPI-U for the United States City
17 Average, the positive percentage change shall be multiplied by
18 the most recent preliminary adjusted amounts and the products
19 shall be added to the preliminary adjusted amount of the prior
20 year to calculate the preliminary adjusted amounts for the
21 current year. The sums thereof shall be rounded to the nearest
22 one thousand dollars ~~(\$1,000)~~ HUNDRED DOLLARS (\$100) to ←
23 determine the new final adjusted base amounts for purposes of
24 subsection (a).

25 (5) The determinations and adjustments required under this
26 subsection shall be made in the period between October 1 and
27 November 15 of the year following the effective date of this
28 subsection, and annually between October 1 and November 15 of
29 each year thereafter.

30 (6) The final adjusted base amounts and new final adjusted

1 base amounts obtained under paragraphs (3) and (4) shall become
2 effective January 1 for the calendar year following the year in
3 which the determination required under paragraph (1) is made.

4 (7) The department shall publish notice in the Pennsylvania
5 Bulletin prior to January 1 of each calendar year of the annual
6 percentage change determined under paragraph (1) and the
7 unadjusted or final adjusted base amounts determined under
8 paragraphs (3) and (4) at which competitive bidding is required
9 under subsection (a) for the calendar year beginning the first
10 day of January after publication of the notice. The notice shall
11 include a written and illustrative explanation of the
12 calculations performed by the department in establishing the
13 unadjusted or final adjusted base amounts under this subsection
14 for the ensuing calendar year.

15 ~~(8) No adjustment to the base amounts specified under~~ ←
16 ~~subsection (a) shall exceed three per centum of the most~~
17 ~~recently adjusted base amount.~~

18 ~~Section 2. The act is amended by adding a section to read:~~

19 ~~Section 10.1. Evasion of Advertising Requirements. No~~
20 ~~member of the Authority shall evade the provisions of section 10~~
21 ~~as to advertising for bids, by purchasing or contracting for~~
22 ~~services and personal properties piecemeal to obtain prices~~
23 ~~under the required advertising price, subject to annual~~
24 ~~adjustment under section 10(b). This provision is intended to~~
25 ~~make unlawful the evading of advertising requirements by making~~
26 ~~a series of purchases or contracts each for less than the~~
27 ~~advertising requirement price, or by making several simultaneous~~
28 ~~purchases or contracts, each below said price, when in either~~
29 ~~case, the transactions involved should have been made as one~~
30 ~~transaction for one price. Any members of the Authority who so~~

1 ~~vote in violation of this provision, and who know that the~~
2 ~~transaction upon which they so vote is or ought to be a part of~~
3 ~~a larger transaction, and that it is being divided in order to~~
4 ~~evade the requirements as to advertising for bids, shall be~~
5 ~~jointly and severally subject to surcharge for ten per centum of~~
6 ~~the full amount of the contract or purchase. Whenever it shall~~
7 ~~appear that a member of the Authority may have voted in~~
8 ~~violation of this section, but the purchase or contract on which~~
9 ~~the member so voted was not approved by the Authority, this~~
10 ~~section shall be inapplicable.~~

11 ~~Section 3. The amendment or addition of sections 10 and 10.1~~

12 ~~(8) THE ANNUAL INCREASE IN THE PRELIMINARY ADJUSTED BASE~~ ←
13 ~~AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL NOT EXCEED~~
14 ~~THREE PER CENTUM.~~

15 SECTION 2. THE AMENDMENT OF SECTION 10 of the act shall
16 apply to contracts and purchases advertised on or after January
17 1 of the year following the effective date of this section.

18 Section 4 3. This act shall take effect immediately. ←