

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 808

Session of
1983

INTRODUCED BY RICHARDSON, IRVIS, PRESTON, LINTON, EVANS,
WILLIAMS, DeWEESE, WIGGINS, FATTAH, WAMBACH AND R. C. WRIGHT,
APRIL 18, 1983

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, APRIL 18, 1983

AN ACT

1 Amending the act of February 1, 1966 (1965 P.L.1656, No.581),
2 entitled "An act concerning boroughs, and revising, amending
3 and consolidating the law relating to boroughs," authorizing
4 business set-asides for minority and small businesses.

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

7 Section 1. The act of February 1, 1966 (1965 P.L.1656,
8 No.581), known as The Borough Code, is amended by adding a
9 section to read:

10 Section 1402.1. Minority and Small Business Set-aside.--(a)
11 The following words and phrases when used in this section shall
12 have, unless the context clearly indicates otherwise, the
13 meanings given to them in this section:

14 "Business set-aside" means that percentage of each borough
15 contract or package of contracts, determined by the ordinance or
16 resolution of council, for which bids are to be solicited only
17 from minority and small businesses.

18 "Total set-aside" means bids for the entire contract are to

1 be solicited only from minority and small businesses.

2 "Partial set-aside" means a portion of the contract,
3 determined by the ordinance or resolution of council, where bids
4 will only be solicited from minority and small businesses.

5 (b) (1) The borough shall, upon designation of a business
6 set-aside as determined by council, include such designation in
7 the advertisement for bids in the media used to solicit bids.

8 (2) In the case of contracts designated as a business set-
9 aside, invitations to bid shall be confined to small and
10 minority businesses and bids from other businesses shall be
11 rejected. The contract shall be awarded to the lowest
12 responsible bidder among such businesses in accordance with the
13 ordinance or resolution or rules and regulations for purchasing
14 promulgated by council. Awarding of contracts to businesses
15 under this section is subject to all other provisions of this
16 act governing procurement and all rules promulgated thereunder,
17 as now or hereafter amended, except as altered by this section
18 and the ordinances or rules and regulations promulgated in its
19 administration.

20 (3) In the event the borough, when it solicits a bid, feels
21 that responsive competitive bids at reasonable prices were not
22 obtained as a result of the business set-aside solicitation, or
23 that bids thereof were received only from firms demonstrated to
24 be not responsible, it may request that council cancel the
25 business set-aside designation. Council action must be taken on
26 the request within thirty days of receipt. Upon the approval of
27 the cancellation by council, the procurement will be
28 readvertised on an unrestricted basis. Small and minority
29 business bidding firms will be notified of the business set-
30 aside cancellation, the reasons for the bid rejection, and the

1 borough's intent to readvertise the procurement on an
2 unrestricted basis. No business set-aside shall be cancelled
3 unless council has determined from all available evidence that
4 either no qualified firms or individuals are bidding on the
5 projected contract or that responding firms are incapable of
6 performing for reasonable price expectations.

7 (c) Council shall be responsible for carrying out the
8 policies of this section and to the extent consistent with the
9 best interests of the borough shall attempt to locate additional
10 qualified small and minority business suppliers by all
11 appropriate methods, particularly where only a limited number of
12 small and minority business concerns are on bidders' lists.

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