THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1751

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, SEPTEMBER 29, 1987

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 9, 1988

AN ACT

- Amending the act of May 2, 1945 (P.L.382, No.164), entitled "An 2 act providing for the incorporation as bodies corporate and politic of 'Authorities' for municipalities, counties and 3 4 townships; prescribing the rights, powers and duties of such 5 Authorities heretofore or hereafter incorporated; authorizing such Authorities to acquire, construct, improve, maintain and operate projects, and to borrow money and issue bonds therefor; providing for the payment of such bonds, and 8 9 prescribing the rights of the holders thereof; conferring the 10 right of eminent domain on such Authorities; authorizing such Authorities to enter into contracts with and to accept grants 11 from the Federal Government or any agency thereof; and 12 13 conferring exclusive jurisdiction on certain courts over 14 rates," restricting certain persons from bidding on 15 contracts.
- 16 The General Assembly of the Commonwealth of Pennsylvania
- 17 hereby enacts as follows:
- 18 Section 1. The act of May 2, 1945 (P.L.382, No.164), known
- 19 as the Municipality Authorities Act of 1945, is amended by
- 20 adding a section to read:
- 21 Section 10.1. Restrictions Concerning Contracts.--A. No
- 22 person who or entity which, as a contractor or subcontractor,

- 1 supplied goods or services to a government or government
- 2 <u>instrumentality</u> and has been convicted of, or has pleaded guilty
- 3 or nolo contendere to, a Federal or State crime involving fraud
- 4 upon a government or a government instrumentality for acts or
- 5 omissions arising out of the supplying of goods or services, and
- 6 no entity in which that person or entity has a substantial
- 7 interest, may bid on a contract for a period of three years
- 8 after such conviction or plea. For purposes of this subsection,
- 9 the following words and phrases shall have the following
- 10 meanings:
- 11 (a) "Crime" means any criminal act committed after the
- 12 <u>effective date of this amendatory act for which the maximum</u>
- 13 possible penalty exceeds a fine of three hundred dollars (\$300)
- 14 or exceeds imprisonment for ninety days.
- 15 (b) "Entity" means any association, corporation, limited
- 16 partnership, partnership, or other business or nonprofit
- 17 organization.
- 18 (c) "Fraud" includes, but is not limited to:
- 19 (1) A misrepresentation of a material fact that is not made
- 20 <u>honestly and in good faith.</u>
- 21 (2) A promise, representation or prediction as to the future
- 22 that is not made honestly and in good faith.
- 23 (3) An intentional failure to disclose a material fact.
- 24 (4) A fictitious or pretended purchase or sale of a
- 25 <u>security.</u>
- 26 (5) The gaining, through the sale of a security, of an
- 27 underwriting or promotion fee or profit or a selling or managing
- 28 fee or profit that is so gross or exorbitant as to be
- 29 unconscionable. This includes a scheme, device or artifice to
- 30 obtain such a profit, fee or commission.

- 1 (6) A scheme, device or artifice to defraud a prospective or
- 2 <u>actual customer, client or subscriber of securities</u>, money or
- 3 property.
- 4 (d) "State" means the District of Columbia and any
- 5 possession, state, territory or trusteeship of the United
- 6 States.
- 7 (e) "Substantial interest" means serving as a director,
- 8 limited partner, officer, partner or proprietor, or owning more
- 9 than ten per centum of the number of shares of voting stock or
- 10 more than twenty per centum of the total number of shares of
- 11 stock.
- 12 B. In the case of a bid involving the collection,
- 13 <u>transportation</u>, <u>treatment</u>, <u>storage or disposal of solid waste or</u>

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- 14 hazardous waste under the act of July 7, 1980 (P.L.380, No.97),
- 15 known as the "Solid Waste Management Act," the following shall
- 16 apply:
- 17 (a) A bid may be rejected by the authorizing authorities if
- 18 one of the following applies:
- 19 (1) The authorizing authorities have reason to believe that
- 20 <u>the bidder's responsibility, character and general fitness for</u>
- 21 business do not command the confidence of the public and may not
- 22 be conducive to the honest and efficient conduct of business in
- 23 the best interest of the public.
- 24 (2) The bidder's prior performance record in the collection,
- 25 transportation, treatment, storage or disposal of solid waste
- 26 <u>exhibited insufficient reliability, expertise or competency to</u>
- 27 warrant the belief that the bidder would be likely to exhibit
- 28 <u>sufficient reliability, expertise or competence with respect to</u>
- 29 <u>the contract being bid.</u>
- 30 (b) The township may require the following information to be

- 1 submitted with the bid:
- 2 (1) If the bidder has an equity interest in a company which
- 3 collects, transports, treats, stores or disposes of solid waste
- 4 or hazardous waste, the name and address of that company.
- 5 <u>(2) A description of the bidder's experience and credentials</u>
- 6 in collection, transportation, treatment, storage or disposal of
- 7 solid waste or hazardous waste. This includes past or present
- 8 licenses.
- 9 <u>(3) If the bidder is an entity, the names of the officers</u>
- 10 and directors or partners.
- 11 (4) A list and explanation of Federal, State and local
- 12 notices of violation, prosecutions, administrative orders and
- 13 <u>license revocations for the ten years immediately preceding the</u>
- 14 bid submission, if the action is pending or has resulted in a
- 15 finding or a settlement of a violation of law by the bidder or
- 16 <u>its employes, and, in the case of an entity, by an officer or</u>
- 17 director or a partner, relating to the collection,
- 18 <u>transportation</u>, <u>treatment</u>, <u>storage or disposal of solid waste or</u>
- 19 hazardous waste.
- 20 (5) A list and explanation of judgments of civil liability
- 21 <u>and convictions against the bidder or its employes and, in the</u>
- 22 case of an entity, against an officer or director or a partner.
- 23 (6) A list of agencies outside of this Commonwealth which
- 24 had regulatory authority over the bidder in connection with the
- 25 collection, transportation, treatment, storage or disposal of
- 26 solid waste or hazardous waste.
- 27 (7) Other information that the authorizing authorities deem
- 28 relevant to the competency, reliability or good character of the
- 29 <u>bidder.</u>
- 30 <u>C B. The township may require the following information to</u>

- be submitted with the bid: a sworn statement by the bidder and, 1
- 2 <u>if the affiant is an entity, by every person or entity having a</u>
- 3 <u>substantial interest therein</u>, <u>listing all Federal and State</u>
- 4 convictions of, and pleas of guilty or nolo contendere to, any
- 5 crime within three years prior to the date of the statement,
- said statement to be dated no more than one week prior to the 6
- 7 date set for the opening of bids.
- Section 2. This act shall take effect in 60 days. 8