

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 741 Session of
1989

INTRODUCED BY STOUT, CORMAN, STEWART, BRIGHTBILL, PUNT, LEMMOND,
PORTERFIELD, MADIGAN, AFFLERBACH, REIBMAN AND PETERSON,
MARCH 21, 1989

SENATOR PECORA, LOCAL GOVERNMENT, AS AMENDED, OCTOBER 24, 1989

AN ACT

1 Amending the act of July 29, 1953 (P.L.1034, No.270), entitled,
2 as amended, "An act creating as bodies corporate and politic
3 'Public Auditorium Authorities' in counties of the second
4 class and in cities of the second class and in cities of the
5 second class A to borrow money and issue bonds therefor;
6 providing for the payment of such bonds and prescribing the
7 rights of the holders thereof; conferring the right of
8 eminent domain on such Authorities; empowering such
9 Authorities to enter into contracts, leases and licenses with
10 and to accept grants from private sources, the Federal
11 Government, State, political subdivisions of the State or any
12 agency thereof; authorizing the making of said grants from
13 bond funds or current revenues; authorizing Authorities to
14 collect rentals, admissions, license fees for the use of the
15 project; exempting the property and securities of such Public
16 Auditorium Authorities from taxation," increasing the amount
17 of contracts that may be awarded without competitive bids;
18 and further providing for the purchase of supplies and
19 materials.

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 Section 1. ~~Subsections A and B of section~~ SECTION 11 of the <—
23 act of July 29, 1953 (P.L.1034, No.270), known as the Public
24 Auditorium Authorities Law, amended OR ADDED OCTOBER 4, 1978 <—
25 (P.L.1055, NO.244) AND December 22, 1981 (P.L.549, No.161), are <—
26 IS amended to read: <—

1 Section 11. Competition in Award of Contracts.

2 A. All construction, reconstruction, repairs or work of any
3 nature made by any Authority, where the entire cost, value or
4 amount of such construction, reconstruction, repairs or work,
5 including labor and materials, shall exceed [four thousand
6 dollars (\$4,000.00)] ten thousand dollars (\$10,000), except
7 construction, reconstruction, repairs or work done by employees
8 of said Authority or by labor supplied under agreement with any
9 Federal or State agency with supplies and materials purchased,
10 as hereinafter provided, shall be done only under contract or
11 contracts to be entered into by the Authority with the lowest
12 responsible bidder upon proper terms, after due public notice
13 has been given asking for competitive bids hereinafter provided.
14 No contract shall be entered into for construction or
15 improvement or repair of any project or portion thereof unless
16 the contractor shall give an undertaking, with a sufficient
17 surety or sureties approved by the Authority and in an amount
18 fixed by the Authority, for the faithful performance of the
19 contract. All such contracts shall provide, among other things,
20 that the person or corporation entering into such contract with
21 the Authority will pay for all materials furnished and services
22 rendered for the performance of the contract and that any person
23 or corporation furnishing such materials or rendering such
24 services may maintain an action to recover for the same against
25 the obligor in the undertaking as though such person or
26 corporation was named therein, provided the action is brought
27 within one year after the time the cause of action accrued.
28 Nothing in this section shall be construed to limit the power of
29 the Authority to construct, repair or improve any project or
30 portion thereof or any addition, betterment or extension thereto

1 directly by the officers, agents and employes of the Authority
2 or otherwise than by contract.

3 B. All supplies and materials costing [four thousand dollars
4 (\$4,000.00)] ten thousand dollars (\$10,000) or more shall be
5 purchased only after due advertisement as hereinafter provided.
6 The Authority shall accept the lowest bid or bids, kinds,
7 quality and material being equal, but the Authority shall have
8 the right to reject any or all bids or select a single item from
9 any bid. The provisions as to bidding shall not apply to the
10 purchase of patented and manufactured products offered for sale
11 in a non-competitive market or solely by a manufacturer's
12 authorized dealer.

13 * * *

14 C. THE TERMS, ADVERTISEMENT OR DUE PUBLIC NOTICE, WHEREVER
15 USED IN THIS SECTION, SHALL MEAN A NOTICE PUBLISHED AT LEAST TEN
16 (10) DAYS BEFORE THE AWARD ON ANY CONTRACT IN A NEWSPAPER OF
17 GENERAL CIRCULATION PUBLISHED IN THE MUNICIPALITY WHERE THE
18 AUTHORITY HAS ITS PRINCIPAL OFFICE, AND IF NO NEWSPAPER IS
19 PUBLISHED THEREIN THEN BY PUBLICATION IN A NEWSPAPER IN THE
20 COUNTY WHERE THE AUTHORITY HAS ITS PRINCIPAL OFFICE: PROVIDED,
21 THAT SUCH NOTICE MAY BE WAIVED WHERE THE AUTHORITY DETERMINES AN
22 EMERGENCY EXISTS AND SUCH SUPPLIES AND MATERIALS MUST BE
23 IMMEDIATELY PURCHASED BY THE SAID AUTHORITY.

24 D. NO MEMBER OF THE AUTHORITY OR OFFICER OR EMPLOYEE THEREOF
25 SHALL, EITHER DIRECTLY OR INDIRECTLY, BE A PARTY TO OR BE IN ANY
26 MANNER INTERESTED IN ANY CONTRACT OR AGREEMENT WITH THE
27 AUTHORITY FOR ANY MATTER, CAUSE OR THING WHATSOEVER, BY REASON
28 WHEREOF ANY LIABILITY OR INDEBTEDNESS SHALL IN ANY WAY BE
29 CREATED AGAINST SUCH AUTHORITY. IF ANY CONTRACT OR AGREEMENT
30 SHALL BE MADE IN VIOLATION OF THE PROVISION OF THIS SECTION, THE

1 SAME SHALL BE NULL AND VOID AND NO ACTION SHALL BE MAINTAINED
2 THEREON AGAINST SUCH AUTHORITY.

3 E. SUBJECT TO THE AFORESAID, ANY AUTHORITY MAY (BUT WITHOUT
4 INTENDING BY THIS PROVISION TO LIMIT ANY POWERS OF SUCH
5 AUTHORITY) ENTER INTO AND CARRY OUT SUCH CONTRACTS OR ESTABLISH
6 OR COMPLY WITH SUCH RULES AND REGULATIONS CONCERNING LABOR AND
7 MATERIALS AND OTHER RELATED MATTERS, IN CONNECTION WITH ANY
8 PROJECT OR PORTION THEREOF, AS THE AUTHORITY MAY DEEM DESIRABLE,
9 OR AS MAY BE REQUESTED BY ANY FEDERAL AGENCY THAT MAY ASSIST IN
10 THE FINANCING OF SUCH PROJECT OR ANY PART THEREOF: PROVIDED,
11 HOWEVER, THAT THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO
12 ANY CASE IN WHICH THE AUTHORITY HAS TAKEN OVER BY TRANSFER OR
13 ASSIGNMENT ANY CONTRACT AUTHORIZED TO BE ASSIGNED TO IT UNDER
14 THE PROVISIONS OF SECTION TEN OF THIS ACT, NOR TO ANY CONTRACT
15 IN CONNECTION WITH THE CONSTRUCTION OF ANY PROJECT WHICH THE
16 AUTHORITY MAY HAVE HAD TRANSFERRED TO IT BY ANY PERSON OR
17 PRIVATE CORPORATION.

18 F. 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 G. AN AUTHORITY SHALL NOT EVADE THE PROVISIONS OF THIS
23 SECTION AS TO ADVERTISING FOR BIDS OR PURCHASING MATERIALS OR
24 CONTRACTING FOR SERVICES PIECE-MEAL, FOR THE PURPOSE OF
25 OBTAINING PRICES UNDER TEN THOUSAND DOLLARS (\$10,000) UPON
26 TRANSACTIONS WHICH SHOULD IN THE EXERCISE OF REASONABLE
27 DISCRETION AND PRUDENCE BE CONDUCTED AS ONE TRANSACTION
28 AMOUNTING TO MORE THAN TEN THOUSAND DOLLARS (\$10,000). THIS
29 PROVISION IS INTENDED TO MAKE UNLAWFUL THE PRACTICE OF EVADING
30 ADVERTISING REQUIREMENTS BY MAKING A SERIES OF PURCHASES OR

1 CONTRACTS EACH FOR LESS THAN THE ADVERTISING REQUIREMENT PRICE,
2 OR BY MAKING SEVERAL SIMULTANEOUS PURCHASES OR CONTRACTS EACH
3 BELOW SAID PRICE, WHEN IN EITHER CASE THE TRANSACTION INVOLVED
4 SHOULD HAVE BEEN MADE AS ONE TRANSACTION FOR ONE PRICE.

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