

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1866 Session of
2005

INTRODUCED BY HERMAN, HENNESSEY, LESCOVITZ, BIANCUCCI, HANNA,
M. KELLER, HARHAI, HICKERNELL, O'NEILL, KAUFFMAN, ROSS,
HARPER, PETRI, T. STEVENSON, McNAUGHTON, GINGRICH, ARMSTRONG,
BALDWIN, BOYD, CAPPELLI, DALLY, DENLINGER, DeWEESE, FRANKEL,
GEIST, HARRIS, HERSHEY, McILHATTAN, PHILLIPS, PICKETT,
SCAVELLO AND WATSON, JULY 3, 2005

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JULY 3, 2005

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 adjustments based on
6 Consumer Price Index; and further providing for work to be
7 done under contract let on bids, for purchase of supplies,
8 for contracts for construction, repair, renovation or
9 maintenance, for project contracts and for powers and duties
10 of institution presidents.

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

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

16 Section 116. Adjustments Based on Consumer Price Index.--(a)
17 (1) The Department of Labor and Industry shall determine the
18 percentage change in the Consumer Price Index for All Urban
19 Consumers for the twelve-month period ending September 30 of the
20 calendar year in which this subsection becomes effective, and

1 for each successive twelve-month period thereafter.

2 (2) The amounts at which competitive bidding or written or
3 telephonic price quotations are required under this act shall be
4 adjusted annually as follows:

5 (i) In the case of competitive bidding, the positive
6 percentage change, as determined in accordance with clause (1),
7 shall be multiplied by the amount applicable under the provision
8 requiring competitive bidding for the current year and the
9 product thereof shall be added to the amount applicable under
10 the provision requiring competitive bidding for the current
11 year, with the result rounded to the nearest multiple of ten
12 dollars (\$10).

13 (ii) In the case of written or telephonic price quotations,
14 the positive percentage change, as determined in accordance with
15 clause (1), shall be multiplied by the amount applicable under
16 the provision requiring written or telephonic price quotations
17 for the current year and the product thereof shall be added to
18 the amount applicable under the provision requiring written or
19 telephonic price quotations for the current year, with the
20 result rounded to the nearest multiple of ten dollars (\$10).

21 (3) The annual determination required under clause (1) and
22 the calculation of the adjustments required under clause (2)
23 shall be made in the period between October 1 and November 15 of
24 the year following the effective date of this subsection, and
25 annually between October 1 and November 15 of each successive
26 year.

27 (4) The adjusted amounts obtained in accordance with clause
28 (2) shall become effective January 1 for the calendar year
29 following the year in which the determination required under
30 clause (1) is made.

1 (5) The Department of Labor and Industry shall give notice
2 in the Pennsylvania Bulletin prior to January 1 of each calendar
3 year of the annual percentage change determined in accordance
4 with clause (1) and the amounts, whether adjusted or unadjusted
5 in accordance with clause (2), at which competitive bidding or
6 written or telephonic price quotations are required for the
7 calendar year beginning the first day of January after
8 publication of the notice.

9 Section 2. Section 751(a), (a.1), (b) and (f) of the act,
10 amended or added July 13, 1979 (P.L.94, No.41) and May 4, 1990
11 (P.L.164, No.38), are amended to read:

12 Section 751. Work to be Done Under Contract Let on Bids;
13 Exception.--(a) All construction, reconstruction, repairs,
14 maintenance or work of any nature, including the introduction of
15 plumbing, heating and ventilating, or lighting systems, upon any
16 school building or upon any school property, or upon any
17 building or portion of a building leased under the provisions of
18 section 703.1, made by any school district, where the entire
19 cost, value, or amount of such construction, reconstruction,
20 repairs, maintenance or work, including labor and material,
21 shall exceed [ten thousand dollars (\$10,000)] twenty-five
22 thousand dollars (\$25,000) subject to annual adjustment under
23 section 116, shall be done under separate contracts to be
24 entered into by such school district with the lowest responsible
25 bidder, upon proper terms, after due public notice has been
26 given asking for competitive bids. Whenever a board of school
27 directors shall approve the use of a prefabricated unit,
28 complete in itself, for a school building or other proper
29 structure to be erected upon school property, the board of
30 school directors may have prepared appropriate specifications

1 detailing the size and material desired in a particular
2 prefabricated unit, including all utilities such as plumbing,
3 heating and ventilating, and electrical work, and may advertise
4 for a single bid on all the work and award the contract therefor
5 to the lowest responsible bidder: Provided, That if due to an
6 emergency a school plant or any part thereof becomes unusable
7 competitive bids for repairs or replacement may be solicited
8 from at least three responsible bidders, and upon the approval
9 of any of these bids by the Secretary of Education, the board of
10 school directors may proceed at once to make the necessary
11 repairs or replacements in accordance with the terms of said
12 approved bid or bids.

13 (a.1) Written or telephonic price quotations from at least
14 three qualified and responsible contractors shall be requested
15 by the board of school directors for all contracts that exceed
16 [four thousand dollars (\$4,000)] ten thousand dollars (\$10,000)
17 subject to annual adjustment under section 116 but are less than
18 the amount requiring advertisement and competitive bidding, or,
19 in lieu of price quotations, a memorandum shall be kept on file
20 showing that fewer than three qualified contractors exist in the
21 market area within which it is practicable to obtain quotations.
22 A written record of telephonic price quotations shall be made
23 and shall contain at least the date of the quotation, the name
24 of the contractor and the contractor's representative, the
25 construction, reconstruction, repair, maintenance or work which
26 was the subject of the quotation and the price. Written price
27 quotations, written records of telephonic price quotations and
28 memoranda shall be retained for a period of three years.

29 (b) The board of school directors in any school district may
30 perform any construction, reconstruction, repairs, or work of

1 any nature, where the entire cost or value, including labor and
2 material, is less than [five thousand dollars (\$5000)] ten
3 thousand dollars (\$10,000) subject to annual adjustment under
4 section 116, by its own maintenance personnel. The board of
5 school directors in any school district may authorize the
6 secretary of the board or other executive to award contracts for
7 construction, reconstruction, repairs, or work of any nature,
8 where the entire cost or value, including labor and material,
9 [is ten thousand dollars (\$10,000)] subject to annual adjustment
10 under section 116, is twenty-five thousand dollars (\$25,000) or
11 less, without soliciting competitive bids, subject, however, to
12 the provisions of subsection (a.1).

13 * * *

14 (f) No board of school directors shall evade the provisions
15 of this section as to advertising for bids or purchasing
16 materials or contracting for services piecemeal for the purpose
17 of obtaining prices under [ten thousand dollars (\$10,000)]
18 twenty-five thousand dollars (\$25,000) subject to annual
19 adjustment under section 116, upon transactions which should, in
20 the exercise of reasonable discretion and prudence, be conducted
21 as one transaction amounting to more than [ten thousand dollars
22 (\$10,000)] twenty-five thousand dollars (\$25,000) subject to
23 annual adjustment under section 116. This provision is intended
24 to make unlawful the practice of evading advertising
25 requirements by making a series of purchases or contracts each
26 for less than the advertising requirement price, or by making
27 several simultaneous purchases or contracts each below said
28 price, when in either case the transaction involved should have
29 been made as one transaction for one price.

30 Section 3. Section 807.1 of the act, amended May 4, 1990

1 (P.L.164, No.38), is amended to read:

2 Section 807.1. Purchase of Supplies.--(a) All furniture,
3 equipment, textbooks, school supplies and other appliances for
4 the use of the public schools, costing [ten thousand dollars
5 (\$10,000)], subject to annual adjustment under section 116,
6 twenty-five thousand dollars (\$25,000) or more shall be
7 purchased by the board of school directors only after due
8 advertisement as hereinafter provided. Supplies, subject to
9 annual adjustment under section 116, costing [ten thousand
10 dollars (\$10,000)] twenty-five thousand dollars (\$25,000) or
11 more shall be purchased by the board of school directors only
12 after public notice has been given by advertisement once a week
13 for three (3) weeks in not less than two (2) newspapers of
14 general circulation. In any district where no newspaper is
15 published, said notice may, in lieu of such publication, be
16 posted in at least five (5) public places.

17 (a.1) Written or telephonic price quotations from at least
18 three qualified and responsible vendors shall be requested by
19 the board of school directors for all purchases of supplies that
20 exceed [four thousand dollars (\$4,000)] ten thousand dollars
21 (\$10,000), subject to annual adjustment under section 116, but
22 are less than the amount requiring advertisement and competitive
23 bidding, or, in lieu of price quotations, a memorandum shall be
24 kept on file showing that fewer than three qualified vendors
25 exist in the market area within which it is practicable to
26 obtain quotations. A written record of telephonic price
27 quotations shall be made and shall contain at least the date of
28 the quotation, the name of the vendor and the vendor's
29 representative, the supplies which were the subject of the
30 quotation and the price of the supplies. Written price

1 quotations, written records of telephonic price quotations and
2 memoranda shall be retained for a period of three years.

3 (b) The board of school directors shall accept the bid of
4 the lowest responsible bidder, kind, quality, and material being
5 equal, but shall have the right to reject any and all bids, or
6 select a single item from any bid. The board of school directors
7 in any district may authorize or appoint the secretary of the
8 board or other executive as purchasing agent for the district,
9 with authority to purchase supplies costing less than [ten
10 thousand dollars (\$10,000)] twenty-five thousand dollars
11 (\$25,000), subject to annual adjustment under section 116.

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

18 (d) No board of school directors shall evade the provisions
19 of this section as to advertising for bids or purchasing
20 materials piecemeal for the purpose of obtaining prices under
21 [ten thousand dollars (\$10,000)] twenty-five thousand dollars
22 (\$25,000), subject to annual adjustment under section 116, upon
23 transactions which should, in the exercise of reasonable
24 discretion and prudence, be conducted as one transaction
25 amounting to more than [ten thousand dollars (\$10,000)] twenty-
26 five thousand dollars (\$25,000), subject to annual adjustment
27 under section 116. This provision is intended to make unlawful
28 the practice of evading advertising requirements by making a
29 series of purchases or contracts each for less than the
30 advertising requirement price, or by making several simultaneous

1 purchases or contracts each below said price, when in either
2 case the transaction involved should have been made as one
3 transaction for one price.

4 Section 4. Section 1913-B.1(c) of the act, added December 9,
5 2002 (P.L.1472, No.187), is amended to read:

6 Section 1913-B.1. Contracts for Construction, Repair,
7 Renovation or Maintenance.--* * *

8 (c) All contracts, other than contracts for the retention of
9 architects and engineers, authorized by this section which
10 exceed [ten thousand dollars (\$10,000) or any larger amount as
11 otherwise provided for in 62 Pa.C.S. (relating to procurement)]
12 twenty-five thousand dollars (\$25,000), subject to annual
13 adjustment under section 116, shall be advertised in the manner
14 provided by law and competitively bid and awarded to the lowest
15 responsible bidder. In case of emergencies and notwithstanding
16 any other provision of this section to the contrary, the board
17 of trustees may make or authorize others to make an emergency
18 procurement whenever a threat exists to public health, welfare
19 or safety or circumstances outside the control of the college
20 and creates an urgency of need which does not permit the delay
21 involved in using more formal competitive methods. Whenever
22 practical, in the case of a procurement of a supply, at least
23 two (2) bids shall be solicited. A written determination of the
24 basis for the emergency and for the selection of the particular
25 contractor shall be included in the contract file.

26 * * *

27 Section 5. Section 2003-A.1(c) of the act, amended July 11,
28 1990 (P.L.424, No.103), is amended to read:

29 Section 2003-A.1. Project Contracts.--* * *

30 (c) All contracts, other than contracts for the retention of

1 architects and engineers, authorized by this section which
2 exceed [ten thousand dollars (\$10,000)] twenty-five thousand
3 dollars (\$25,000), subject to annual adjustment under section
4 116, shall be advertised in the manner provided by law and
5 competitively bid and awarded to the lowest responsible bidder.
6 In case of emergencies and notwithstanding any other provision
7 of this section to the contrary, the chancellor may make or
8 authorize others to make an emergency procurement whenever a
9 threat exists to public health, welfare or safety or
10 circumstances outside the control of the State system and
11 creates an urgency of need which does not permit the delay
12 involved in using more formal competitive methods. Whenever
13 practical, in the case of a procurement of a supply, at least
14 two (2) bids shall be solicited. A written determination of the
15 basis for the emergency and for the selection of the particular
16 contractor shall be included in the contract file.

17 * * *

18 Section 6. Section 2010-A(10) of the act, amended April 27,
19 1998 (P.L.270, No.46), is amended to read:

20 Section 2010-A. Power and Duties of Institution
21 Presidents.--The president of each institution shall be
22 appointed by the board. The president shall be the chief
23 executive officer of that institution. He shall have the right
24 to attend all meetings of the council of that institution and
25 shall have the right to speak on all matters before the council
26 but not to vote. Subject to the stated authority of the board
27 and the council, each president shall have the following powers
28 and duties:

29 * * *

30 (10) Within the limitations of the operating budget and

1 other available funds in accordance with the procedures
2 established by the board and with the approval of the local
3 council, to negotiate and award all contracts for equipment,
4 services and supplies in excess of a cost of [ten thousand
5 dollars (\$10,000)] twenty-five thousand dollars (\$25,000),
6 subject to annual adjustment under section 116, on a competitive
7 bid basis and to purchase instructional, educational,
8 extracurricular, technical, administrative, custodial and
9 maintenance equipment and supplies not in excess of a cost of
10 [ten thousand dollars (\$10,000)] twenty-five thousand dollars
11 (\$25,000), subject to annual adjustment under section 116,
12 without competitive bidding, except that such items shall not be
13 bought in series to avoid the dollar ceiling.

14 * * *

15 Section 7. This act shall apply to contracts and purchases
16 advertised on or after January 1 of the year following the
17 effective date of this section.

18 Section 8. This act shall take effect in 60 days.