

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1072 Session of  
2007

INTRODUCED BY ROBBINS, REGOLA, FERLO, ARMSTRONG, BAKER, BROWNE,  
BRUBAKER, CORMAN, COSTA, EICHELBERGER, ERICKSON, FOLMER,  
FONTANA, GORDNER, GREENLEAF, KASUNIC, LAVALLE, ORIE, PILEGGI,  
PIPPY, PUNT, SCARNATI, STOUT, TOMLINSON, VANCE, WAUGH AND  
WONDERLING, SEPTEMBER 21, 2007

REFERRED TO LOCAL GOVERNMENT, SEPTEMBER 21, 2007

AN ACT

1 Amending the act of June 23, 1931 (P.L.932, No.317), entitled  
2 "An act relating to cities of the third class; and amending,  
3 revising, and consolidating the law relating thereto,"  
4 further regulating contracts as to purchasing and advertising  
5 requirements.

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

8 Section 1. Section 1901(a), (b) and (d) of the act of June  
9 23, 1931 (P.L.932, No.317), known as The Third Class City Code,  
10 reenacted and amended June 28, 1951 (P.L.662, No.164), amended  
11 March 25, 1988 (P.L.289, No.32) and July 11, 1996 (P.L.647,  
12 No.109), is amended to read:

13 Section 1901. Power to Make Contracts; Regulations  
14 Concerning Contracts.--(a) Each city may make contracts for  
15 carrying into execution the provisions of this act and the laws  
16 of the Commonwealth. The council shall, by ordinance, provide  
17 for and regulate the award of all contracts. All contracts or  
18 purchases not in excess of [ten] twenty-five thousand dollars,

1 subject to annual adjustment under section one thousand nine  
2 hundred and three of this act, shall be by note or memorandum in  
3 writing, signed by the officer or employe making the purchase or  
4 contract.

5 (b) All services and personal properties required by any  
6 city, or any department thereof, where the amount exceeds the  
7 sum of [ten] twenty-five thousand dollars, subject to annual  
8 adjustment under section one thousand nine hundred and three of  
9 this act, shall be furnished and performed under written  
10 contract, and the contract shall be awarded and given to the  
11 lowest responsible bidder, after advertising two times, each  
12 publication on a different day, in not more than two newspapers,  
13 in accord with the provisions of section one hundred and nine of  
14 this act, and the bids shall not be opened until at least ten  
15 days have elapsed after the first advertisement. A notice of the  
16 advertisement for contracts or purchases shall also be posted at  
17 the city hall.

18 \* \* \*

19 (d) The contracts or purchases made by council involving an  
20 expenditure of over [ten] twenty-five thousand dollars, subject  
21 to annual adjustment under section one thousand nine hundred and  
22 three of this act, which shall not require advertising or  
23 bidding, as hereinbefore provided are as follows:

24 (1) Those for maintenance, repairs or replacements for  
25 water, electric light or other public works of the city,  
26 provided they do not constitute new additions, extensions or  
27 enlargements of existing facilities and equipment, but a bond  
28 may be required by council as in other cases of work done.

29 (2) Those made for improvements, repairs and maintenance of  
30 any kind made or provided by any city through its own employes:

1 Provided, however, That this shall not apply to construction  
2 materials used in a street improvement.

3 (3) Those where particular types, models or pieces of new  
4 equipment, articles, apparatus, appliances, vehicles, or parts  
5 thereof, are desired by council, which are patented and  
6 manufactured or copyrighted products.

7 (4) Those involving any policies of insurance or surety  
8 company bonds; those made for public utility service under  
9 tariffs on file with the Pennsylvania Public Utility Commission;  
10 those made with another political subdivision or a county, the  
11 Commonwealth of Pennsylvania, the Federal government, any agency  
12 of the Commonwealth or the Federal government, or any municipal  
13 authority, including the sale, leasing or loan of any supplies  
14 or materials by the Commonwealth or the Federal government, or  
15 their agencies, but the price thereof shall not be in excess of  
16 that fixed by the Commonwealth, the Federal government, or their  
17 agencies.

18 (5) Those involving personal or professional services.

19 (6) Those made during a state of emergency declared by the  
20 mayor or chief executive in accord with section one thousand two  
21 hundred and three of this act.

22 \* \* \*

23 Section 2. Section 1902 of the act, amended March 25, 1988  
24 (P.L.289, No.32), is amended to read:

25 Section 1902. Evasion of Advertising Requirements.--No  
26 member or members of council shall evade the provisions of the  
27 preceding section as to advertising for bids by purchasing or  
28 contracting for services and personal properties piecemeal for  
29 the purpose of obtaining prices under [ten] twenty-five thousand  
30 dollars, subject to annual adjustment under section one thousand

1 nine hundred and three of this act, upon transactions which  
2 should, in the exercise of reasonable discretion and prudence,  
3 be conducted as one transaction amounting to more than [ten]  
4 twenty-five thousand dollars, subject to annual adjustment under  
5 section one thousand nine hundred and three of this act. This  
6 provision is intended to make unlawful the practice of evading  
7 advertising requirements by making a series of purchases or  
8 contracts, each for less than the advertising requirement price,  
9 or by making several simultaneous purchases or contracts, each  
10 below said price, when, in either case, the transactions  
11 involved should have been made as one transaction for one price.  
12 Any members of council who so vote in violation of this  
13 provision and who know that the transaction upon which they so  
14 vote is or ought to be a part of a larger transaction and that  
15 it is being divided in order to evade the requirements as to  
16 advertising for bids, shall be jointly and severally subject to  
17 surcharge for ten per centum of the full amount of the contract  
18 or purchase. Wherever it shall appear that a member of council  
19 may have voted in violation of this section but the purchase or  
20 contract on which he so voted was not approved by council, this  
21 section shall be inapplicable.

22 Section 3. The act is amended by adding a section to read:

23 Section 1903.1. Adjustments Based on Consumer Price Index  
24 for All Urban Consumers.--(a) Annually, beginning with the year  
25 in which this subsection becomes applicable to contracts and  
26 purchases, the Department of Labor and Industry shall calculate  
27 the percentage change in the Consumer Price Index for All Urban  
28 Consumers (CPI-U) for the United States city average for all  
29 items as published by the United States Department of Labor,  
30 Bureau of Labor Statistics, for the twelve-month average ending

1 in September of the prior year.

2 (b) The amounts at which competitive bidding and separate  
3 bids are required under this act shall be adjusted annually. The  
4 positive percentage change, as determined in accordance with  
5 subsection (a), shall be multiplied by the applicable amount for  
6 the current year and the product thereof shall be added to the  
7 applicable amount for the current year, with the result rounded  
8 to the nearest multiple of ten dollars.

9 (c) The annual determination required under subsection (a)  
10 and the calculation of the adjustments required under subsection  
11 (b) shall be made in the period between October 1 and November  
12 15 of the year following the effective date of this section, and  
13 annually between October 1 and November 15 of each successive  
14 year.

15 (d) The adjusted amounts obtained in accordance with  
16 subsection (b) shall become effective January 1 for the calendar  
17 year following the year in which the determination required  
18 under subsection (a) is made.

19 (e) The Department of Labor and Industry shall give notice  
20 in the Pennsylvania Bulletin prior to January 1 of each calendar  
21 year of the annual percentage change determined in accordance  
22 with subsection (a) and the amounts, whether adjusted or  
23 unadjusted in accordance with subsection (b), at which  
24 competitive bidding, advertising and separate bids are required  
25 under this act for the calendar year beginning the first day of  
26 January after publication of the notice.

27 Section 4. Section 1909 of the act, amended March 25, 1988  
28 (P.L.289, No.32), is amended to read:

29 Section 1909. Separate Bids for Plumbing, Heating,  
30 Ventilating and Electrical Work, Elevators and Moving Stairs.--

1 In the preparation of specifications for the erection,  
2 construction, and alteration of any public building, when the  
3 entire cost of such work shall exceed [ten] twenty-five thousand  
4 dollars, subject to annual adjustment under section one thousand  
5 nine hundred and three of this act, the architect, engineer, or  
6 other person preparing such specifications, shall prepare only  
7 the following separate specifications; (1) plumbing, (2)  
8 heating, (3) ventilating, (4) electrical work, (5) elevators and  
9 moving stairs, and (6) one complete set of specifications for  
10 all the other work to be done in such erection, construction and  
11 alteration. The person or persons authorized to enter into  
12 contracts for the erection, construction, or alteration of such  
13 public buildings shall receive separate bids upon each of the  
14 said branches of work, and award the contract for the same to  
15 the lowest responsible bidder for each of said branches,  
16 including the balance of the work in addition to the plumbing,  
17 heating, ventilating and electrical work and elevators and  
18 moving stairs. Where it is desired to install an air  
19 conditioning unit, the heating and ventilating so involved may  
20 be regarded as one branch of work having only one set of  
21 specifications, and bids may be received and a contract awarded  
22 thereon as hereinbefore provided.

23 Section 5. This act shall apply to contracts and purchases  
24 advertised on or after January 1 of the year following the  
25 effective date of this section.

26 Section 6. This act shall take effect immediately.