

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1080 Session of
2007

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

REFERRED TO LOCAL GOVERNMENT, SEPTEMBER 21, 2007

AN ACT

1 Amending the act of April 29, 1937 (P.L.526, No.118), entitled,
2 as reenacted and amended, "An act providing for and
3 regulating joint purchases by counties (other than counties
4 of the first class), cities of the second and third class,
5 boroughs, towns, townships, school districts, institution
6 districts, and poor districts," increasing the amount of
7 purchases that may be made subject to certain conditions.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 2 of the act of April 29, 1937 (P.L.526,
11 No.118), referred to as the Political Subdivision Joint
12 Purchases Law, reenacted and amended July 28, 1941 (P.L.544,
13 No.224) and amended July 10, 1990 (P.L.398, No.95), is amended
14 to read:

15 Section 2. (a) All such purchases involving the expenditure
16 of over [ten thousand dollars (\$10,000)] twenty-five thousand
17 dollars (\$25,000) subject to annual adjustment under subsection
18 (b.1) shall be in writing, and shall be made only after notice,
19 by one of the political subdivisions joining therein, once a

1 week for two weeks in one or more newspapers of general
2 circulation published in the political subdivision advertising
3 the same. All plans and specifications shall be placed on file
4 by each of the political subdivisions joining in such purchase
5 at least fifteen days in advance of opening bids.

6 (b) Written or telephonic price quotations from at least
7 three qualified and responsible contractors shall be requested
8 for all contracts that exceed [four thousand dollars (\$4,000)]
9 seven thousand dollars (\$7,000) subject to annual adjustment
10 under subsection (b.1) but are less than the amount requiring
11 advertisement and competitive bidding or, in lieu of price
12 quotations, a memorandum shall be kept on file showing that
13 fewer than three qualified contractors exist in the market area
14 within which it is practicable to obtain quotations. A written
15 record of telephonic price quotations shall be made and shall
16 contain at least the date of the quotation, the name of the
17 contractor and the contractor's representative, the
18 construction, reconstruction, repair, maintenance or work which
19 was the subject of the quotation and the price. Written price
20 quotations, written records of telephonic price quotations and
21 memoranda shall be retained for a period of three years.

22 (b.1) (1) Annually, beginning with the year in which this
23 subsection becomes applicable to contracts and purchases, the
24 Department of Labor and Industry shall calculate the percentage
25 change in the Consumer Price Index for All Urban Consumers (CPI-
26 U) for the United States city average for all items as published
27 by the United States Department of Labor, Bureau of Labor
28 Statistics, for the twelve-month average ending in September of
29 the prior year.

30 (2) The amount at which competitive bidding is required

under subsection (a) and the amount at which written or telephonic price quotations are required under subsection (b) shall be adjusted annually as follows:

(i) In the case of competitive bidding, the positive percentage change, as determined in accordance with paragraph (1), shall be multiplied by the amount applicable under subsection (a) for the current year and the product thereof shall be added to the amount applicable under subsection (a) for the current year, with the result rounded to the nearest multiple of ten dollars (\$10).

(ii) In the case of written or telephonic price quotations, the positive percentage change, as determined in accordance with paragraph (1), shall be multiplied by the amount applicable under subsection (b) for the current year and the product thereof shall be added to the amount applicable under subsection (b) for the current year, with the result rounded to the nearest multiple of ten dollars (\$10).

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

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

(5) The Department of Labor and Industry shall give notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined in accordance

1 with paragraph (1) and the amounts, whether adjusted or
2 unadjusted in accordance with paragraph (2), at which
3 competitive bidding is required under subsection (a) and written
4 or telephonic price quotations are required under subsection (b)
5 for the calendar year beginning the first day of January after
6 publication of the notice.

7 (c) No county or municipal government shall evade the
8 provisions of this section as to advertising for bids or
9 purchasing materials or contracting for services piecemeal for
10 the purpose of obtaining prices under [ten thousand dollars
11 (\$10,000)] twenty-five thousand dollars (\$25,000) subject to
12 annual adjustment under subsection (b.1) upon transactions which
13 should, in the exercise of reasonable discretion and prudence,
14 be conducted as one transaction amounting to more than [ten
15 thousand dollars (\$10,000)] twenty-five thousand dollars
16 (\$25,000) subject to annual adjustment under subsection (b.1).

17 This provision is intended to make unlawful the practice of
18 evading advertising requirements by making a series of purchases
19 or contracts each for less than the advertising requirement
20 price or by making several simultaneous purchases or contracts
21 each below said price, when in either case the transaction
22 involved should have been made as one transaction for one price.

23 (d) Any member of a governing body of a county or
24 municipality who votes to unlawfully evade the provisions of
25 this section and who knows that the transaction upon which he so
26 votes is or ought to be a part of a larger transaction and that
27 it is being divided in order to evade the requirements as to
28 advertising for bids commits a misdemeanor of the third degree
29 for each contract entered into as a direct result of that vote.

30 (e) Every contract for the construction, reconstruction,

1 alteration, repair, improvement or maintenance of public works
2 shall comply with the provisions of the act of March 3, 1978
3 (P.L.6, No.3), known as the "Steel Products Procurement Act."

4 Section 2. This act shall apply to contracts and purchases
5 advertised on or after January 1 of the year following the
6 effective date of this section.

7 Section 3. This act shall take effect immediately.