

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 332 Session of 2009

INTRODUCED BY EICHELBERGER, SCARNATI, MUSTO, ROBBINS, STOUT,  
FOLMER, ORIE, BAKER, SMUCKER, BROWNE, PICCOLA, BRUBAKER,  
CORMAN, KASUNIC, EARLL, GORDNER, PILEGGI, RAFFERTY, ERICKSON,  
ALLOWAY, BOSCOLA, O'PAKE, WONDERLING, M. WHITE, GREENLEAF,  
PIPPY AND FERLO, FEBRUARY 20, 2009

REFERRED TO EDUCATION, FEBRUARY 20, 2009

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 and exception, for purchase  
8 of supplies, for contracts for construction, repair,  
9 renovation or maintenance, for project contracts and for  
10 powers and duties 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 118. Adjustments Based on Consumer Price Index.--(a)  
17 (1) Annually, beginning with the year in which this subsection  
18 becomes applicable to contracts and purchases, the Department of  
19 Labor and Industry shall calculate the percentage change in the  
20 Consumer Price Index for All Urban Consumers (CPI-U) for the

United States city average for all items as published by the  
United States Department of Labor, Bureau of Labor Statistics,  
for the twelve-month average ending in September of the prior  
year.

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

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

(3) The annual determination required under clause (1) and  
the calculation of the adjustments required under clause (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 clause

1 (2) shall become effective January 1 for the calendar year  
2 following the year in which the determination required under  
3 clause (1) is made.

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

12 Section 2. Sections 751(a), (a.1), (b) and (f) and 807.1 of  
13 the act, amended or added May 4, 1990 (P.L.164, No.38), are  
14 amended to read:

15 Section 751. Work to be Done Under Contract Let on Bids;  
16 Exception.--(a) All construction, reconstruction, repairs,  
17 maintenance or work of any nature, including the introduction of  
18 plumbing, heating and ventilating, or lighting systems, upon any  
19 school building or upon any school property, or upon any  
20 building or portion of a building leased under the provisions of  
21 section 703.1, made by any school district, where the entire  
22 cost, value, or amount of such construction, reconstruction,  
23 repairs, maintenance or work, including labor and material,  
24 shall exceed [ten thousand dollars (\$10,000)] twenty-five  
25 thousand dollars (\$25,000), subject to annual adjustment under  
26 section 118, shall be done under separate contracts to be  
27 entered into by such school district with the lowest responsible  
28 bidder, upon proper terms, after due public notice has been  
29 given asking for competitive bids. Whenever a board of school  
30 directors shall approve the use of a prefabricated unit,

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

16 (a.1) Written or telephonic price quotations from at least  
17 three qualified and responsible contractors shall be requested  
18 by the board of school directors for all contracts that exceed  
19 [four thousand dollars (\$4,000)] seven thousand dollars  
20 (\$7,000), subject to annual adjustment under section 118, but  
21 are less than the amount requiring advertisement and competitive  
22 bidding, or, in lieu of price quotations, a memorandum shall be  
23 kept on file showing that fewer than three qualified contractors  
24 exist in the market area within which it is practicable to  
25 obtain quotations. A written record of telephonic price  
26 quotations shall be made and shall contain at least the date of  
27 the quotation, the name of the contractor and the contractor's  
28 representative, the construction, reconstruction, repair,  
29 maintenance or work which was the subject of the quotation and  
30 the price. Written price quotations, written records of

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

3 (b) The board of school directors in any school district may  
4 perform any construction, reconstruction, repairs, or work of  
5 any nature, where the entire cost or value, including labor and  
6 material, is less than [five thousand dollars (\$5000)] seven  
7 thousand dollars (\$7,000), subject to annual adjustment under  
8 section 118, by its own maintenance personnel. The board of  
9 school directors in any school district may authorize the  
10 secretary of the board or other executive to award contracts for  
11 construction, reconstruction, repairs, or work of any nature,  
12 where the entire cost or value, including labor and material,  
13 [is ten thousand dollars (\$10,000)] subject to annual adjustment  
14 under section 118, is twenty-five thousand dollars (\$25,000) or  
15 less, without soliciting competitive bids, subject, however, to  
16 the provisions of subsection (a.1).

17 \* \* \*

18 (f) No board of school directors shall evade the provisions  
19 of this section as to advertising for bids or purchasing  
20 materials or contracting for services piecemeal for the purpose  
21 of obtaining prices under [ten thousand dollars (\$10,000)]  
22 twenty-five thousand dollars (\$25,000), subject to annual  
23 adjustment under section 118, upon transactions which should, in  
24 the exercise of reasonable discretion and prudence, be conducted  
25 as one transaction amounting to more than [ten thousand dollars  
26 (\$10,000)] twenty-five thousand dollars (\$25,000), subject to  
27 annual adjustment under section 118. This provision is intended  
28 to make unlawful the practice of evading advertising  
29 requirements by making a series of purchases or contracts each  
30 for less than the advertising requirement price, or by making

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

4 Section 807.1. Purchase of Supplies.--(a) All furniture,  
5 equipment, textbooks, school supplies and other appliances for  
6 the use of the public schools, costing [ten thousand dollars  
7 (\$10,000)], subject to annual adjustment under section 118,  
8 twenty-five thousand dollars (\$25,000) or more shall be  
9 purchased by the board of school directors only after due  
10 advertisement as hereinafter provided. Supplies, subject to  
11 annual adjustment under section 118, costing [ten thousand  
12 dollars (\$10,000)] twenty-five thousand dollars (\$25,000) or  
13 more shall be purchased by the board of school directors only  
14 after public notice has been given by advertisement once a week  
15 for three (3) weeks in not less than two (2) newspapers of  
16 general circulation. In any district where no newspaper is  
17 published, said notice may, in lieu of such publication, be  
18 posted in at least five (5) public places.

19 (a.1) Written or telephonic price quotations from at least  
20 three qualified and responsible vendors shall be requested by  
21 the board of school directors for all purchases of supplies that  
22 exceed [four thousand dollars (\$4,000)] seven thousand dollars  
23 (\$7,000), subject to annual adjustment under section 118, but  
24 are less than the amount requiring advertisement and competitive  
25 bidding, or, in lieu of price quotations, a memorandum shall be  
26 kept on file showing that fewer than three qualified vendors  
27 exist in the market area within which it is practicable to  
28 obtain quotations. A written record of telephonic price  
29 quotations shall be made and shall contain at least the date of  
30 the quotation, the name of the vendor and the vendor's

1 representative, the supplies which were the subject of the  
2 quotation and the price of the supplies. Written price  
3 quotations, written records of telephonic price quotations and  
4 memoranda shall be retained for a period of three years.

5 (b) The board of school directors shall accept the bid of  
6 the lowest responsible bidder, kind, quality, and material being  
7 equal, but shall have the right to reject any and all bids, or  
8 select a single item from any bid. The board of school directors  
9 in any district may authorize or appoint the secretary of the  
10 board or other executive as purchasing agent for the district,  
11 with authority to purchase supplies costing less than [ten  
12 thousand dollars (\$10,000)] twenty-five thousand dollars  
13 (\$25,000), subject to annual adjustment under section 118.

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

20 (d) No board of school directors shall evade the provisions  
21 of this section as to advertising for bids or purchasing  
22 materials piecemeal for the purpose of obtaining prices under  
23 [ten thousand dollars (\$10,000)] twenty-five thousand dollars  
24 (\$25,000), subject to annual adjustment under section 118, upon  
25 transactions which should, in the exercise of reasonable  
26 discretion and prudence, be conducted as one transaction  
27 amounting to more than [ten thousand dollars (\$10,000)] twenty-  
28 five thousand dollars (\$25,000), subject to annual adjustment  
29 under section 118. This provision is intended to make unlawful  
30 the practice of evading advertising requirements by making a

1 series of purchases or contracts each for less than the  
2 advertising requirement price, or by making several simultaneous  
3 purchases or contracts each below said price, when in either  
4 case the transaction involved should have been made as one  
5 transaction for one price.

6 Section 3. Section 1913-B.1(c) of the act, added December 9,  
7 2002 (P.L.1472, No.187), is amended to read:

8 Section 1913-B.1. Contracts for Construction, Repair,  
9 Renovation or Maintenance.--\* \* \*

10 (c) All contracts, other than contracts for the retention of  
11 architects and engineers, authorized by this section which  
12 exceed [ten thousand dollars (\$10,000) or any larger amount as  
13 otherwise provided for in 62 Pa.C.S. (relating to procurement)]  
14 twenty-five thousand dollars (\$25,000), subject to annual  
15 adjustment under section 118, shall be advertised in the manner  
16 provided by law and competitively bid and awarded to the lowest  
17 responsible bidder. In case of emergencies and notwithstanding  
18 any other provision of this section to the contrary, the board  
19 of trustees may make or authorize others to make an emergency  
20 procurement whenever a threat exists to public health, welfare  
21 or safety or circumstances outside the control of the college  
22 and creates an urgency of need which does not permit the delay  
23 involved in using more formal competitive methods. Whenever  
24 practical, in the case of a procurement of a supply, at least  
25 two (2) bids shall be solicited. A written determination of the  
26 basis for the emergency and for the selection of the particular  
27 contractor shall be included in the contract file.

28 \* \* \*

29 Section 4. Sections 2003-A.1(c) and 2010-A(10) of the act,  
30 amended April 27, 1998 (P.L.270, No.46), are amended to read:



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

(c) All contracts, other than contracts for the retention of architects and engineers, authorized by this section which exceed [ten thousand dollars (\$10,000)] twenty-five thousand dollars (\$25,000), subject to annual adjustment under section 118, shall be advertised in the manner provided by law and competitively bid and awarded to the lowest responsible bidder. In case of emergencies and notwithstanding any other provision of this section to the contrary, the chancellor may make or authorize others to make an emergency procurement whenever a threat exists to public health, welfare or safety or circumstances outside the control of the State system and creates an urgency of need which does not permit the delay involved in using more formal competitive methods. Whenever practical, in the case of a procurement of a supply, at least two (2) bids shall be solicited. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

\* \* \*

Section 2010-A. Power and Duties of Institution

Presidents.--The president of each institution shall be appointed by the board. The president shall be the chief executive officer of that institution. He shall have the right to attend all meetings of the council of that institution and shall have the right to speak on all matters before the council but not to vote. Subject to the stated authority of the board and the council, each president shall have the following powers and duties:

\* \* \*

(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 118, 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 118,  
12 without competitive bidding, except that such items shall not be  
13 bought in series to avoid the dollar ceiling.

14 \* \* \*

15 Section 5. 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 6. This act shall take effect in 60 days.