

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 278 Session of  
2011

INTRODUCED BY M. K. KELLER, AUMENT, BAKER, BEAR, BENNINGHOFF, BLOOM, BOBACK, BOYD, BROOKS, CAUSER, CHRISTIANA, CLYMER, COX, CREIGHTON, CUTLER, DELOZIER, DENLINGER, ELLIS, EVERETT, FARRY, FLECK, GABLER, GEIST, GILLESPIE, GINGRICH, GRELL, GROVE, HALUSKA, HARHART, HARPER, HARRIS, HELM, HENNESSEY, HESS, HICKERNELL, KAUFFMAN, KILLION, KNOWLES, MAJOR, MARSHALL, MARSICO, MASSER, METCALFE, MILLARD, MILLER, MOUL, OBERLANDER, O'NEILL, PAYNE, PEIFER, PERRY, PICKETT, PYLE, QUIGLEY, QUINN, RAPP, REED, REICHLEY, ROAE, ROCK, ROSS, SAYLOR, SCAVELLO, CULVER, SCHRODER, SIMMONS, SONNEY, STERN, STEVENSON, SWANGER, TALLMAN, TOBASH, TRUITT, TURZAI, VEREB, VULAKOVICH, WATSON, TOEPEL, F. KELLER AND MIRABITO, JANUARY 27, 2011

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 5, 2011

## AN ACT

1 Amending the act of May 1, 1933 (P.L.103, No.69), entitled, as  
2 reenacted and amended, "An act concerning townships of the  
3 second class; and amending, revising, consolidating and  
4 changing the law relating thereto," in contracts, further  
5 providing for competitive bidding of contracts.

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

8 Section 1. Section 3102(a), (b) and (h) of the act of May 1,  
9 1933 (P.L.103, No.69), known as The Second Class Township Code,  
10 reenacted and amended November 9, 1995 (P.L.350, No.60), and  
11 amended December 18, 1996 (P.L.1142, No.172), December 19, 1996  
12 (P.L.1412, No.181) and October 11, 2000 (P.L.535, No.70), are  
13 amended and the section is amended by adding a subsection to

1 read:

2 Section 3102. Letting Contracts.--(a) All contracts or  
3 purchases in excess of the required advertising BASE amount of ←  
4 [ten thousand dollars (\$10,000)] twenty-five thousand dollars  
5 (\$25,000), subject to adjustment under subsection (b.1), except  
6 those specifically excluded, shall not be made except with and  
7 from the lowest responsible bidder after due notice in one  
8 newspaper of general circulation in the township. The notice for  
9 bids shall be published at least two times at intervals of not  
10 less than three days in daily newspapers or once a week for two  
11 successive weeks in weekly newspapers. The first advertisement  
12 shall be published not more than forty-five days, and the second  
13 advertisement not less than ten days, before the date set for  
14 the opening of bids. Notice of proposed contracts or purchases  
15 shall also be posted where the board of supervisors normally  
16 meets or in a conspicuous place within the township. Any  
17 published notice for bids shall contain full plans and  
18 specifications, or refer to the places where copies thereof can  
19 be obtained, state the amount of the performance bond determined  
20 under subsection (g) and give the date, time and place of a  
21 meeting at which an individual or committee appointed by the  
22 board of supervisors or the board of supervisors will open and  
23 read the bids.

24 (b) Written or telephonic price quotations from at least  
25 three qualified and responsible contractors shall be requested  
26 for all contracts [that exceed ~~four~~ thousand dollars (\$4,000)] ←  
27 IN EXCESS OF THE BASE AMOUNT OF ten thousand dollars (\$10,000), ←  
28 subject to adjustment under subsection (b.1), but are less than  
29 the amount requiring advertisement and competitive bidding, or,  
30 in lieu of price quotations, a memorandum shall be kept on file

1 showing that fewer than three qualified contractors exist in the  
2 market area within which it is practicable to obtain quotations.  
3 A written record of telephonic price quotations shall be made  
4 and shall contain at least the date of the quotation, the name  
5 of the contractor and the contractor's representative, the  
6 construction, reconstruction, repair, maintenance or work which  
7 was the subject of the quotation and the price. Written price  
8 quotations, written records of telephonic price quotations and  
9 memoranda shall be retained for a period of three years.

10 ~~(b.1) Adjustments shall be made as follows:~~

11 ~~(1) The Department of Labor and Industry shall determine the~~  
12 ~~percentage change in the Consumer Price Index for All Urban~~  
13 ~~Consumers for the twelve month period ending September 30 of the~~  
14 ~~calendar year in which this subsection becomes effective, and~~  
15 ~~for each successive twelve month period thereafter.~~

16 ~~(2) The amount at which competitive bidding is required~~  
17 ~~under subsection (a) and the amount at which written or~~  
18 ~~telephonic price quotations are required under subsection (b)~~  
19 ~~shall be adjusted annually as follows:~~

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

27 ~~(ii) In the case of written or telephonic price quotations,~~  
28 ~~the positive percentage change, as determined in accordance with~~  
29 ~~paragraph (1), shall be multiplied by the amount applicable~~  
30 ~~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 shall give notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined in accordance with paragraph (1) and the amounts, whether adjusted or unadjusted in accordance with paragraph (2), at which competitive bidding is required under subsection (a) and written or telephonic price quotations are required under subsection (b) for the calendar year beginning the first day of January after publication of the notice.~~

~~(B.1) ADJUSTMENTS TO THE BASE AMOUNTS SPECIFIED UNDER SUBSECTIONS (A) AND (B) SHALL BE MADE AS FOLLOWS:~~

~~(1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE THE PERCENTAGE CHANGE IN THE ALL ITEMS CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) FOR THE UNITED STATES CITY AVERAGE AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER 30 OF THE CALENDAR YEAR IN WHICH THIS SUBSECTION BECOMES EFFECTIVE,~~



1 AND FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD THEREAFTER.

2 (2) IF THE DEPARTMENT DETERMINES THAT THERE IS NO POSITIVE  
3 PERCENTAGE CHANGE, THEN NO ADJUSTMENT TO THE BASE AMOUNTS SHALL  
4 OCCUR FOR THE RELEVANT TIME PERIOD PROVIDED FOR IN THIS  
5 SUBSECTION.

6 (3) (I) IF THE DEPARTMENT DETERMINES THAT THERE IS A  
7 POSITIVE PERCENTAGE CHANGE IN THE FIRST YEAR THAT THE  
8 DETERMINATION IS MADE UNDER PARAGRAPH (1), THE POSITIVE  
9 PERCENTAGE CHANGE SHALL BE MULTIPLIED BY EACH BASE AMOUNT AND  
10 THE PRODUCTS SHALL BE ADDED TO THE BASE AMOUNTS, RESPECTIVELY,  
11 AND THE SUMS SHALL BE PRELIMINARY ADJUSTED AMOUNTS.

12 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO  
13 THE NEAREST ONE THOUSAND DOLLARS (\$1,000), TO DETERMINE THE  
14 FINAL ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND  
15 (B).

16 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE  
17 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY  
18 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY  
19 THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS  
20 SHALL BE ADDED TO THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS,  
21 RESPECTIVELY. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST  
22 ONE THOUSAND DOLLARS (\$1,000) TO DETERMINE THE NEW FINAL  
23 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (B).

24 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS  
25 SUBSECTION SHALL BE MADE IN THE PERIOD BETWEEN OCTOBER 1 AND  
26 NOVEMBER 15 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS  
27 SUBSECTION, AND ANNUALLY BETWEEN OCTOBER 1 AND NOVEMBER 15 OF  
28 EACH YEAR THEREAFTER.

29 (6) THE FINAL ADJUSTED BASE AMOUNTS AND NEW FINAL ADJUSTED  
30 BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL BECOME

1 EFFECTIVE JANUARY 1 FOR THE CALENDAR YEAR FOLLOWING THE YEAR IN  
2 WHICH THE DETERMINATION REQUIRED UNDER PARAGRAPH (1) IS MADE.

3 (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA  
4 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL  
5 PERCENTAGE CHANGE DETERMINED UNDER PARAGRAPH (1) AND THE  
6 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER  
7 PARAGRAPHS (3) AND (4) AT WHICH COMPETITIVE BIDDING IS REQUIRED  
8 UNDER SUBSECTION (A) AND WRITTEN OR TELEPHONIC PRICE QUOTATIONS  
9 ARE REQUIRED UNDER SUBSECTION (B), RESPECTIVELY, FOR THE  
10 CALENDAR YEAR BEGINNING THE FIRST DAY OF JANUARY AFTER  
11 PUBLICATION OF THE NOTICE. THE NOTICE SHALL INCLUDE A WRITTEN  
12 AND ILLUSTRATIVE EXPLANATION OF THE CALCULATIONS PERFORMED BY  
13 THE DEPARTMENT IN ESTABLISHING THE UNADJUSTED OR FINAL ADJUSTED  
14 BASE AMOUNTS UNDER THIS SUBSECTION FOR THE ENSUING CALENDAR  
15 YEAR.

16 \* \* \*

17 (h) The contracts or purchases made by the board of  
18 supervisors involving payments in excess of the required  
19 advertising amount, which do not require advertising, bidding or  
20 price quotations are as follows:

21 (1) Those made for emergency, or routine maintenance,  
22 repairs or replacements for water, electric light and other  
23 public works of the township if they do not constitute new  
24 additions, extensions or enlargements of existing facilities and  
25 equipment.

26 (2) Those made for improvements, repairs or maintenance of  
27 any kind made or provided by any township through its own  
28 employes. All contracts or purchases of materials used for  
29 improvement, maintenance or construction [in excess of four  
30 thousand dollars (\$4,000) but less than the required advertising

amount] are subject to the provisions contained in subsection (a) and (b)[, and those contracts or purchases in excess of the required advertising amount are subject to the advertising requirements contained in subsection (a)].

(3) Those involving any policies of insurance or surety company bonds, those made for public utility service, those made for electricity, natural gas or telecommunications service either directly or with an association authorized under Article XIV in which the township is a member and those made with another municipal corporation, county, school district or municipality authority or Federal or State Government, including the sale, leasing or loan of any supplies or materials by the Federal or State Government or their agencies.

(4) Those involving personal or professional services.

(5) Those made for materials and supplies or equipment rental under emergency conditions under 35 Pa.C.S. Pt. V (relating to emergency management services).

(6) Those contracts involving equipment rental with operators if more than fifty percent of the total labor personnel hours required for the completion of the contract is supplied by the township through its own employees.

(7) Those contracts for the purchase of repair parts or materials for use in existing township equipment or facilities if the item or material to be purchased is the sole item of its kind on the market or is manufactured as a replacement for the original item or equipment being repaired.

(8) Those for used equipment, articles, apparatus, appliances, vehicles or parts thereof being purchased from a public utility.

(9) Those where particular types, models or pieces of

1 equipment, articles, apparatus, appliances, vehicles or parts  
2 thereof which are patented and manufactured products.

3 \* \* \*

4 Section 2. This act shall apply to contracts and purchases  
5 advertised after December 31 of the year in which this section  
6 takes effect.

7 Section 3. This act shall take effect immediately.