

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 280 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 AND F. KELLER, 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 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," in  
4 contracts, further regulating contracts as to purchasing and  
5 advertising 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) and  
11 amended March 25, 1988 (P.L.289, No.32) and July 11, 1996  
12 (P.L.647, No.109), are amended to read:

13 Section 1901. Power to Make Contracts; Regulations  
14 Concerning Contracts.--(a) Each city may make contracts for

1 carrying into execution the provisions of this act and the laws  
2 of the Commonwealth. The council shall, by ordinance, provide  
3 for and regulate the award of all contracts. All contracts or  
4 purchases not in excess of [ten] THE BASE AMOUNT OF twenty-five ←  
5 thousand dollars, subject to annual adjustment under section  
6 1903.1, shall be by note or memorandum in writing, signed by the  
7 officer or employe making the purchase or contract.

8 (b) All services and personal properties required by any  
9 city, or any department thereof, where the amount exceeds the  
10 [sum of {ten] BASE AMOUNT OF twenty-five thousand dollars, ←  
11 subject to annual adjustment under section 1903.1, shall be  
12 furnished and performed under written contract, and the contract  
13 shall be awarded and given to the lowest responsible bidder,  
14 after advertising two times, each publication on a different  
15 day, in not more than two newspapers, in accord with the  
16 provisions of section one hundred and nine of this act, and the  
17 bids shall not be opened until at least ten days have elapsed  
18 after the first advertisement. A notice of the advertisement for  
19 contracts or purchases shall also be posted at the city hall.

20 \* \* \*

21 (d) The contracts or purchases made by council involving an  
22 expenditure [of over {ten] IN EXCESS OF THE BASE AMOUNT OF ←  
23 twenty-five thousand dollars, subject to annual adjustment under  
24 section 1903.1, which shall not require advertising or bidding,  
25 as hereinbefore provided are as follows:

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

1 (2) Those made for improvements, repairs and maintenance of  
2 any kind made or provided by any city through its own employees:  
3 Provided, however, That this shall not apply to construction  
4 materials used in a street improvement.

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

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

20 (5) Those involving personal or professional services.

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

24 \* \* \*

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

27 Section 1902. Evasion of Advertising Requirements.--No  
28 member or members of council shall evade the provisions of the  
29 preceding section as to advertising for bids by purchasing or  
30 contracting for services and personal properties piecemeal for

1 the purpose of obtaining prices under [ten] THE BASE AMOUNT OF ←  
2 twenty-five thousand dollars, subject to annual adjustment under  
3 section 1903.1, upon transactions which should, in the exercise  
4 of reasonable discretion and prudence, be conducted as one  
5 transaction amounting to more than [ten] THE BASE AMOUNT OF ←  
6 twenty-five thousand dollars, subject to annual adjustment under  
7 section 1903.1. This provision is intended to make unlawful the  
8 practice of evading advertising requirements by making a series  
9 of purchases or contracts, each for less than the advertising  
10 requirement price, or by making several simultaneous purchases  
11 or contracts, each below said price, when, in either case, the  
12 transactions involved should have been made as one transaction  
13 for one price. Any members of council who so vote in violation  
14 of this provision and who know that the transaction upon which  
15 they so vote is or ought to be a part of a larger transaction  
16 and that it is being divided in order to evade the requirements  
17 as to advertising for bids, shall be jointly and severally  
18 subject to surcharge for ten per centum of the full amount of  
19 the contract or purchase. Wherever it shall appear that a member  
20 of council may have voted in violation of this section but the  
21 purchase or contract on which he so voted was not approved by  
22 council, this section shall be inapplicable.

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

24 Section 1903.1. Adjustments Based on Consumer Price Index  
25 for All Urban Consumers.--(a) The Department of Labor and ←  
26 Industry shall determine the percentage change in the Consumer  
27 Price Index for All Urban Consumers for the twelve month period  
28 ending September 30 of the calendar year in which this section  
29 becomes effective, and for each successive twelve month period  
30 thereafter.

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

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

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

~~(e) 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 with subsection (a) and the amounts, whether adjusted or unadjusted in accordance with subsection (b), at which competitive bidding, advertising and separate bids are required under this act for the calendar year beginning the first day of January after publication of the notice.~~ ADJUSTMENTS TO THE BASE  
AMOUNTS SPECIFIED UNDER SECTIONS 1901, 1902 AND 1909 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~~

1 PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF  
2 LABOR STATISTICS FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER 30  
3 OF THE CALENDAR YEAR IN WHICH THIS SECTION BECOMES EFFECTIVE,  
4 AND FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD THEREAFTER.

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

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

14 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO  
15 THE NEAREST ONE THOUSAND DOLLARS, TO DETERMINE THE FINAL  
16 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SECTIONS 1901, 1902 AND  
17 1909.

18 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE  
19 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY  
20 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY  
21 THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS  
22 SHALL BE ADDED TO THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS,  
23 RESPECTIVELY. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST  
24 ONE THOUSAND DOLLARS TO DETERMINE THE NEW FINAL ADJUSTED BASE  
25 AMOUNTS FOR PURPOSES OF SECTIONS 1901, 1902 AND 1909.

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

1     (6) THE FINAL ADJUSTED BASE AMOUNTS AND NEW FINAL ADJUSTED  
2 BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL BECOME  
3 EFFECTIVE JANUARY 1 FOR THE CALENDAR YEAR FOLLOWING THE YEAR IN  
4 WHICH THE DETERMINATION REQUIRED UNDER PARAGRAPH (1) IS MADE.

5     (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA  
6 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL  
7 PERCENTAGE CHANGE DETERMINED UNDER PARAGRAPH (1) AND THE  
8 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER  
9 PARAGRAPHS (3) AND (4) FOR PURPOSES OF SECTIONS 1901, 1902 AND  
10 1909, RESPECTIVELY, FOR THE CALENDAR YEAR BEGINNING THE FIRST  
11 DAY OF JANUARY AFTER PUBLICATION OF THE NOTICE. THE NOTICE SHALL  
12 INCLUDE A WRITTEN AND ILLUSTRATIVE EXPLANATION OF THE  
13 CALCULATIONS PERFORMED BY THE DEPARTMENT IN ESTABLISHING THE  
14 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS UNDER THIS SECTION FOR  
15 THE ENSUING CALENDAR YEAR.

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

18     Section 1909. Separate Bids for Plumbing, Heating,  
19 Ventilating and Electrical Work, Elevators and Moving Stairs.--  
20 In the preparation of specifications for the erection,  
21 construction, and alteration of any public building, when the  
22 entire cost of such work shall exceed [ten] THE BASE AMOUNT OF ←  
23 twenty-five thousand dollars, subject to annual adjustment under  
24 section 1903.1, the architect, engineer, or other person  
25 preparing such specifications, shall prepare only the following  
26 separate specifications; (1) plumbing, (2) heating, (3)  
27 ventilating, (4) electrical work, (5) elevators and moving  
28 stairs, and (6) one complete set of specifications for all the  
29 other work to be done in such erection, construction and  
30 alteration. The person or persons authorized to enter into

1 contracts for the erection, construction, or alteration of such  
2 public buildings shall receive separate bids upon each of the  
3 said branches of work, and award the contract for the same to  
4 the lowest responsible bidder for each of said branches,  
5 including the balance of the work in addition to the plumbing,  
6 heating, ventilating and electrical work and elevators and  
7 moving stairs. Where it is desired to install an air  
8 conditioning unit, the heating and ventilating so involved may  
9 be regarded as one branch of work having only one set of  
10 specifications, and bids may be received and a contract awarded  
11 thereon as hereinbefore provided.

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

15 Section 6. This act shall take effect immediately.