

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 287 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 May 28, 1937 (P.L.955, No.265), entitled, as
2 amended, "An act to promote public health, safety, morals,
3 and welfare by declaring the necessity of creating public
4 bodies, corporate and politic, to be known as housing
5 authorities to engage in slum clearance, and to undertake
6 projects, to provide dwelling accommodations for persons of
7 low income; providing for the organization of such housing
8 authorities; defining their powers and duties; providing for
9 the exercise of such powers, including the acquisition of
10 property by purchase, gift or eminent domain, the renting and
11 selling of property, and including borrowing money, issuing
12 bonds, and other obligations, and giving security therefor;
13 prescribing the remedies of obligees of housing authorities;
14 authorizing housing authorities to enter into agreements,
15 including agreements with the United States, the
16 Commonwealth, and political subdivisions and municipalities
17 thereof; defining the application of zoning, sanitary, and
18 building laws and regulations to projects built or maintained
19 by such housing authorities; exempting the property and
20 securities of such housing authorities from taxation; and
21 imposing duties and conferring powers upon the State Planning
22 Board, and certain other State officers and departments,"
23 further providing for awards of contracts, completion bond,

1 additional bond for protection of materialmen and others.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. Section 11 of the act of May 28, 1937 (P.L.955,
5 No.265), known as the Housing Authorities Law, amended or added
6 May 20, 1949 (P.L.1614, No.486), February 16, 1990 (P.L.67,
7 No.13) and November 21, 1990 (P.L.569, No.143), is amended to
8 read:

9 Section 11. Awards of Contracts; Completion Bond; Additional
10 Bond for Protection of Materialmen and Others.--

11 (a) Whenever the estimated cost of any construction,
12 erection, installation, completion, alteration, repair of, or
13 addition to, any project subject to the control of any Authority
14 shall exceed [ten thousand (\$10,000) dollars] THE BASE AMOUNT OF ←
15 twenty-five thousand (\$25,000) dollars subject to annual
16 adjustment under subsection (b.3), it shall be the duty of said
17 Authority to have such work performed pursuant to a contract
18 awarded to the lowest responsible bidder, after advertisement
19 for bids. Every such contract shall contain a provision
20 obligating the contractor to the prompt payment of all material
21 furnished, labor supplied or performed, rental for equipment
22 employed, and services rendered by public utilities in or in
23 connection with the prosecution of the work, whether or not the
24 said material, labor, equipment or service enter into and become
25 component parts of the work or improvement contemplated. Such
26 provision shall be deemed to be included for the benefit of
27 every person, copartnership, association or corporation who, as
28 subcontractor or otherwise, has furnished material, supplied or
29 performed labor, rented equipment or services in or in
30 connection with the prosecution of the work as aforesaid, and

1 the inclusion thereof in any contract shall preclude the filing
2 by any such person, copartnership, association or corporation of
3 any mechanics' lien claim for such material, labor or rental of
4 equipment.

5 (b) Whenever the estimated cost of any purchase of supplies,
6 materials or equipment or the rental of any equipment, whether
7 or not the same is to be used in connection with the
8 construction, erection, installation, completion, alteration,
9 repair of, or addition to, any project subject to the control of
10 any Authority, shall exceed [ten thousand (\$10,000) dollars] THE ←
11 BASE AMOUNT OF twenty-five thousand (\$25,000) dollars subject to
12 annual adjustment under subsection (b.3), it shall be the duty
13 of such Authority to have such purchase or rental made pursuant
14 to a contract awarded to the lowest responsible bidder, after
15 advertisement for bids, such advertisement to be inserted in a
16 newspaper of general circulation within the county in which the
17 Authority operates.

18 (b.1) An authority shall not evade the provisions of
19 subsection (a) or (b) as to advertising for bids by purchasing
20 materials or contracting for services piecemeal for the purpose
21 of obtaining prices under [ten thousand (\$10,000) dollars] THE ←
22 BASE AMOUNT OF twenty-five thousand (\$25,000) dollars subject to
23 annual adjustment under subsection (b.3) upon transactions which
24 should, in the exercise of reasonable discretion and prudence,
25 be conducted as one transaction amounting to more than [ten
26 thousand (\$10,000) dollars] THE BASE AMOUNT OF twenty-five ←
27 thousand (\$25,000) dollars subject to annual adjustment under
28 subsection (b.3). This provision is intended to make unlawful
29 the practice of evading advertising requirements by making a
30 series of purchases or contracts, each for less than the

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

5 (b.2) Written or telephonic price quotations from at least
6 three qualified and responsible contractors shall be requested
7 for all contracts that exceed [four thousand (\$4,000) dollars]
8 THE BASE AMOUNT OF ten thousand (\$10,000) dollars subject to ←
9 annual adjustment under subsection (b.3) but are less than the
10 amount requiring advertisement and competitive bidding or, in
11 lieu of price quotations, a memorandum shall be kept on file
12 showing that fewer than three qualified contractors exist in the
13 market area within which it is practicable to obtain quotations.
14 A written record of telephonic price quotations shall be made
15 and shall contain at least the date of the quotation, the name
16 of the contractor and the contractor's representative, the
17 construction, reconstruction, repair, maintenance or work which
18 was the subject of the quotation and the price. Written price
19 quotations, written records of telephonic price quotations and
20 memoranda shall be retained for a period of three years.

21 ~~(b.3) (1) The Department of Labor and Industry shall~~ ←
22 ~~determine the percentage change in the Consumer Price Index for~~
23 ~~All Urban Consumers for the twelve month period ending September~~
24 ~~30 of the calendar year in which this subsection becomes~~
25 ~~effective, and for each successive twelve month period~~
26 ~~thereafter.~~

27 ~~(2) The amount at which competitive bidding is required~~
28 ~~under subsection (a) and the amount at which written or~~
29 ~~telephonic price quotations are required under subsection (b.2)~~
30 ~~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 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 (\$10) dollars.~~

~~(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 subsection (b.2) for the current year and the product thereof shall be added to the amount applicable under subsection (b.2) for the current year, with the result rounded to the nearest multiple of ten (\$10) dollars.~~

~~(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 (2) shall become effective January 1 for the calendar year following the year in which the determination required under clause (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 with clause (1) and the amounts, whether adjusted or unadjusted in accordance with clause (2), at which competitive bidding is required under subsection (a) and written or telephonic price~~

~~quotations are required under subsection (b.2) for the calendar year beginning the first day of January after publication of the notice.~~

(B.3) ADJUSTMENTS TO THE BASE AMOUNTS SPECIFIED UNDER CLAUSES (A), (B), (B.1) AND (B.2) 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 CLAUSE BECOMES EFFECTIVE, AND FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD THEREAFTER.

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

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

(II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO THE NEAREST ONE THOUSAND DOLLARS (\$1,000), TO DETERMINE THE FINAL ADJUSTED BASE AMOUNTS FOR PURPOSES OF CLAUSES (A), (B), (B.1) AND (B.2).

(4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS SHALL BE ADDED TO THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS,

1 RESPECTIVELY. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST
2 ONE THOUSAND DOLLARS (\$1,000) TO DETERMINE THE NEW FINAL
3 ADJUSTED BASE AMOUNTS FOR PURPOSES OF CLAUSES (A), (B), (B.1)
4 AND (B.2).

5 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS
6 CLAUSE SHALL BE MADE IN THE PERIOD BETWEEN OCTOBER 1 AND
7 NOVEMBER 15 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS
8 SUBSECTION, AND ANNUALLY BETWEEN OCTOBER 1 AND NOVEMBER 15 OF
9 EACH YEAR THEREAFTER.

10 (6) THE FINAL ADJUSTED BASE AMOUNTS AND NEW FINAL ADJUSTED
11 BASE AMOUNTS OBTAINED UNDER SUBCLAUSES (3) AND (4) SHALL BECOME
12 EFFECTIVE JANUARY 1 FOR THE CALENDAR YEAR FOLLOWING THE YEAR IN
13 WHICH THE DETERMINATION REQUIRED UNDER SUBCLAUSE (1) IS MADE.

14 (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA
15 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL
16 PERCENTAGE CHANGE DETERMINED UNDER SUBCLAUSE (1) AND THE
17 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER
18 SUBCLAUSES (3) AND (4) FOR PURPOSES OF CLAUSES (A), (B), (B.1)
19 AND (B.2), RESPECTIVELY, FOR THE CALENDAR YEAR BEGINNING THE
20 FIRST DAY OF JANUARY AFTER PUBLICATION OF THE NOTICE. THE NOTICE
21 SHALL INCLUDE A WRITTEN AND ILLUSTRATIVE EXPLANATION OF THE
22 CALCULATIONS PERFORMED BY THE DEPARTMENT IN ESTABLISHING THE
23 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS UNDER THIS SUBSECTION
24 FOR THE ENSUING CALENDAR YEAR.

25 (c) A housing authority shall require as a condition of the
26 award of any contract, pursuant to subsection (a) or (b) of this
27 section, that the contractor give to the Authority any bond
28 (including bonds for the performance of the contract, and for
29 the prompt payment by the contractor for material, supplies,
30 labor, services and equipment) which are prescribed by law for

1 contracts awarded by cities or counties, as the case may be, of
2 the same class as the city or county for which such Authority
3 has been created.

4 (d) Notwithstanding anything to the contrary contained in
5 this act or in any other provision of law, a housing authority
6 may include, in any contract let in connection with a project,
7 stipulations requiring that the contractor and any
8 subcontractors comply with requirements as to minimum wages and
9 maximum hours of labor, and comply with any conditions which the
10 Federal or State Government may have attached to its financial
11 aid of the project.

12 (e) Every Authority awarding contracts or requiring the
13 delivery of bonds pursuant to this section shall keep an exact
14 copy of every contract awarded or bond delivered upon file at
15 its principal office. Subject to regulations to be prescribed by
16 the State Planning Board for their safe keeping such copies
17 shall be opened to public inspection.

18 (f) Any authority member who votes to unlawfully evade the
19 provisions of this section and who knows that the transaction
20 upon which he so votes is or ought to be a part of a larger
21 transaction and that it is being divided in order to evade the
22 requirements as to advertising for bids commits a misdemeanor of
23 the third degree for each contract entered into as a direct
24 result of that vote.

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

28 Section 3. This act shall take effect immediately.