

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1515 Session of 2011

INTRODUCED BY CLYMER, AUMENT, BAKER, BLOOM, CREIGHTON, CUTLER, KAUFFMAN, LAWRENCE, MILNE, MOUL, RAPP, REICHLEY, ROCK, ROSS, SCAVELLO AND TALLMAN, MAY 10, 2011

REFERRED TO COMMITTEE ON EDUCATION, MAY 10, 2011

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 relating to contracts and purchases; and
7 further providing for work to be done under contract let on
8 bids and exception, for purchase of supplies, for contracts
9 for construction, repair, renovation or maintenance, for
10 project contracts and for powers and duties of institution
11 presidents.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
15 as the Public School Code of 1949, is amended by adding a
16 section to read:

17 Section 118. Adjustments Based on Consumer Price Index.--(a)
18 (1) Annually, beginning with the year in which this subsection
19 becomes applicable to contracts and purchases, the Department of
20 Labor and Industry shall calculate the percentage change in the
21 Consumer Price Index for All Urban Consumers (CPI-U) for the
22 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
(2) shall become effective January 1 for the calendar year

1 following the year in which the determination required under
2 clause (1) is made.

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

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

14 Section 751. Work to be Done Under Contract Let on Bids;
15 Exception.--(a) All construction, reconstruction, repairs,
16 maintenance or work of any nature, including the introduction of
17 plumbing, heating and ventilating, or lighting systems, upon any
18 school building or upon any school property, or upon any
19 building or portion of a building leased under the provisions of
20 section 703.1, made by any school district, where the entire
21 cost, value, or amount of such construction, reconstruction,
22 repairs, maintenance or work, including labor and material,
23 shall exceed [ten thousand dollars (\$10,000)] fifty thousand
24 dollars (\$50,000), subject to annual adjustment under section
25 118, shall be done under separate contracts to be entered into
26 by such school district with the lowest responsible bidder, upon
27 proper terms, after due public notice has been given asking for
28 competitive bids. Whenever a board of school directors shall
29 approve the use of a prefabricated unit, complete in itself, for
30 a school building or other proper structure to be erected upon

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

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

1 (b) The board of school directors in any school district may
2 perform any construction, reconstruction, repairs, or work of
3 any nature, where the entire cost or value, including labor and
4 material, is less than [five thousand dollars (\$5000)] twenty
5 thousand dollars (\$20,000), subject to annual adjustment under
6 section 118, by its own maintenance personnel. The board of
7 school directors in any school district may authorize the
8 secretary of the board or other executive to award contracts for
9 construction, reconstruction, repairs, or work of any nature,
10 where the entire cost or value, including labor and material,
11 [is ten thousand dollars (\$10,000)] subject to annual adjustment
12 under section 118, is fifty thousand dollars (\$50,000) or less,
13 without soliciting competitive bids, subject, however, to the
14 provisions of subsection (a.1).

15 * * *

16 (f) No board of school directors shall evade the provisions
17 of this section as to advertising for bids or purchasing
18 materials or contracting for services piecemeal for the purpose
19 of obtaining prices under [ten thousand dollars (\$10,000)] fifty
20 thousand dollars (\$50,000), subject to annual adjustment under
21 section 118, upon transactions which should, in the exercise of
22 reasonable discretion and prudence, be conducted as one
23 transaction amounting to more than [ten thousand dollars
24 (\$10,000)] fifty thousand dollars (\$50,000), subject to annual
25 adjustment under section 118. This provision is intended to make
26 unlawful the practice of evading advertising requirements by
27 making a series of purchases or contracts each for less than the
28 advertising requirement price, or by making several simultaneous
29 purchases or contracts each below said price, when in either
30 case the transaction involved should have been made as one

1 transaction for one price.

2 Section 807.1. Purchase of Supplies.--(a) All furniture,
3 equipment, textbooks, school supplies and other appliances for
4 the use of the public schools, costing [ten thousand dollars
5 (\$10,000)], subject to annual adjustment under section 118,
6 fifty thousand dollars (\$50,000) or more shall be purchased by
7 the board of school directors only after due advertisement as
8 hereinafter provided. Supplies, subject to annual adjustment
9 under section 118, costing [ten thousand dollars (\$10,000)]
10 fifty thousand dollars (\$50,000) or more shall be purchased by
11 the board of school directors only after public notice has been
12 given by advertisement once a week for three (3) weeks in not
13 less than two (2) newspapers of general circulation. In any
14 district where no newspaper is published, said notice may, in
15 lieu of such publication, be posted in at least five (5) public
16 places.

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

quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

(b) The board of school directors shall accept the bid of the lowest responsible bidder, kind, quality, and material being equal, but shall have the right to reject any and all bids, or select a single item from any bid. The board of school directors in any district may authorize or appoint the secretary of the board or other executive as purchasing agent for the district, with authority to purchase supplies costing less than [ten thousand dollars (\$10,000)] fifty thousand dollars (\$50,000), subject to annual adjustment under section 118.

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

(d) No board of school directors shall evade the provisions of this section as to advertising for bids or purchasing materials piecemeal for the purpose of obtaining prices under [ten thousand dollars (\$10,000)] fifty thousand dollars (\$50,000), subject to annual adjustment under section 118, upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than [ten thousand dollars (\$10,000)] fifty thousand dollars (\$50,000), subject to annual adjustment under section 118. This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price, or by making several simultaneous purchases

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

4 Section 3. Section 1913-B.1(c) of the act, added December 9,
5 2002 (P.L.1472, No.187), is amended to read:

6 Section 1913-B.1. Contracts for Construction, Repair,
7 Renovation or Maintenance.--* * *

8 (c) All contracts, other than contracts for the retention of
9 architects and engineers, authorized by this section which
10 exceed [ten thousand dollars (\$10,000) or any larger amount as
11 otherwise provided for in 62 Pa.C.S. (relating to procurement)]
12 fifty thousand dollars (\$50,000), subject to annual adjustment
13 under section 118, shall be advertised in the manner provided by
14 law and competitively bid and awarded to the lowest responsible
15 bidder. In case of emergencies and notwithstanding any other
16 provision of this section to the contrary, the board of trustees
17 may make or authorize others to make an emergency procurement
18 whenever a threat exists to public health, welfare or safety or
19 circumstances outside the control of the college and creates an
20 urgency of need which does not permit the delay involved in
21 using more formal competitive methods. Whenever practical, in
22 the case of a procurement of a supply, at least two (2) bids
23 shall be solicited. A written determination of the basis for the
24 emergency and for the selection of the particular contractor
25 shall be included in the contract file.

26 * * *

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

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

30 (c) All contracts, other than contracts for the retention of

1 architects and engineers, authorized by this section which
2 exceed [ten thousand dollars (\$10,000)] fifty thousand dollars
3 (\$50,000), subject to annual adjustment under section 118, shall
4 be advertised in the manner provided by law and competitively
5 bid and awarded to the lowest responsible bidder. In case of
6 emergencies and notwithstanding any other provision of this
7 section to the contrary, the chancellor may make or authorize
8 others to make an emergency procurement whenever a threat exists
9 to public health, welfare or safety or circumstances outside the
10 control of the State system and creates an urgency of need which
11 does not permit the delay involved in using more formal
12 competitive methods. Whenever practical, in the case of a
13 procurement of a supply, at least two (2) bids shall be
14 solicited. A written determination of the basis for the
15 emergency and for the selection of the particular contractor
16 shall be included in the contract file.

17 * * *

18 Section 2010-A. Power and Duties of Institution

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

27 * * *

28 (10) Within the limitations of the operating budget and
29 other available funds in accordance with the procedures
30 established by the board and with the approval of the local

1 council, to negotiate and award all contracts for equipment,
2 services and supplies in excess of a cost of [ten thousand
3 dollars (\$10,000)] fifty thousand dollars (\$50,000), subject to
4 annual adjustment under section 118, on a competitive bid basis
5 and to purchase instructional, educational, extracurricular,
6 technical, administrative, custodial and maintenance equipment
7 and supplies not in excess of a cost of [ten thousand dollars
8 (\$10,000)] fifty thousand dollars (\$50,000), subject to annual
9 adjustment under section 118, without competitive bidding,
10 except that such items shall not be bought in series to avoid
11 the dollar ceiling.

12 * * *

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

16 Section 6. This act shall take effect in 60 days.