

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 290 Session of 2011

INTRODUCED BY BRUBAKER, EICHELBERGER, KASUNIC, FOLMER, GORDNER,  
BOSCOLA, ORIE, RAFFERTY, YAW, M. WHITE, D. WHITE, ERICKSON,  
BAKER, ALLOWAY, GREENLEAF, SMUCKER, FERLO, ROBBINS, VANCE,  
EARLL, SCARNATI, MCILHINNEY, PICCOLA, WARD AND BROWNE,  
JANUARY 26, 2011

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,  
SEPTEMBER 20, 2011

## AN ACT

1 Amending the act of April 29, 1937 (P.L.526, No.118), entitled,  
2 as reenacted and amended, "An act providing for and  
3 regulating joint purchases by counties (other than counties  
4 of the first class), cities of the second and third class,  
5 boroughs, towns, townships, school districts, institution  
6 districts, and poor districts," increasing the amount of  
7 purchases that may be made subject to certain conditions.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Section 2 of the act of April 29, 1937 (P.L.526,  
11 No.118), referred to as the Political Subdivision Joint  
12 Purchases Law, reenacted and amended July 28, 1941 (P.L.544, No.  
13 224) and amended July 10, 1990 (P.L.398, No.95), is amended to  
14 read:

15 Section 2. (a) All such purchases involving the expenditure  
16 of over [ten thousand dollars (\$10,000)] ~~twenty five thousand~~ ←  
17 ~~dollars (\$25,000)~~ THE BASE AMOUNT OF EIGHTEEN THOUSAND FIVE ←  
18 HUNDRED DOLLARS (\$18,500) subject to adjustment under subsection

1 (b.1) shall be in writing, and shall be made only after notice,  
2 by one of the political subdivisions joining therein, once a  
3 week for two weeks in one or more newspapers of general  
4 circulation published in the political subdivision advertising  
5 the same. All plans and specifications shall be placed on file  
6 by each of the political subdivisions joining in such purchase  
7 at least fifteen days in advance of opening bids.

8 (b) Written or telephonic price quotations from at least  
9 three qualified and responsible contractors shall be requested  
10 for all contracts that exceed [four thousand dollars (\$4,000)]  
11 ~~seven thousand dollars (\$7,000)~~ THE BASE AMOUNT OF TEN THOUSAND ←  
12 DOLLARS (\$10,000) subject to adjustment under subsection (b.1)  
13 but are less than the amount requiring advertisement and  
14 competitive bidding or, in lieu of price quotations, a  
15 memorandum shall be kept on file showing that fewer than three  
16 qualified contractors exist in the market area within which it  
17 is practicable to obtain quotations. A written record of  
18 telephonic price quotations shall be made and shall contain at  
19 least the date of the quotation, the name of the contractor and  
20 the contractor's representative, the construction,  
21 reconstruction, repair, maintenance or work which was the  
22 subject of the quotation and the price. Written price  
23 quotations, written records of telephonic price quotations and  
24 memoranda shall be retained for a period of three years.

25 ~~(b.1) (1) Every five years, beginning with the year in~~ ←  
26 ~~which this subsection becomes applicable to contracts and~~  
27 ~~purchases, the Department of Labor and Industry shall calculate~~  
28 ~~the average percentage change in the Consumer Price Index for~~  
29 ~~All Urban Consumers (CPI-U) for the United States city average~~  
30 ~~for all items as published by the United States Department of~~

~~Labor, Bureau of Labor Statistics, for the preceding five year period.~~

~~(2) The amount at which competitive bidding is required under subsection (a) and the amount at which written or telephonic price quotations are required under subsection (b) shall be adjusted every five years as follows:~~

~~(i) In the case of competitive bidding, the positive percentage change, as determined in accordance with paragraph (1), shall be multiplied by the amount applicable under subsection (a) for the current five year period and the product thereof shall be added to the amount applicable under subsection (a) for the current five year period, with the result rounded to the nearest multiple of one hundred dollars (\$100).~~

~~(ii) In the case of written or telephonic price quotations, the positive percentage change, as determined in accordance with paragraph (1), shall be multiplied by the amount applicable under subsection (b) for the current five year period and the product thereof shall be added to the amount applicable under subsection (b) for the current five year period, with the result rounded to the nearest multiple of one hundred dollars (\$100).~~

~~(3) The 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 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 five year period following the year in which the determination required under paragraph (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 in which the 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 five year period 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, 2012, 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 SUBSECTION.

(3) (I) IF THE DEPARTMENT DETERMINES THAT THERE IS A POSITIVE PERCENTAGE CHANGE IN THE FIRST YEAR THAT THE DETERMINATION IS MADE UNDER PARAGRAPH (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 SUBSECTIONS (A) AND

1 (B).

2 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE  
3 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY  
4 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY  
5 THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS  
6 SHALL BE ADDED TO THE PRELIMINARY ADJUSTED AMOUNT OF THE PRIOR  
7 YEAR TO CALCULATE THE PRELIMINARY ADJUSTED AMOUNTS FOR THE  
8 CURRENT YEAR. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST  
9 ONE THOUSAND DOLLARS (\$1,000) TO DETERMINE THE NEW FINAL  
10 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (B).

11 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS  
12 SUBSECTION SHALL BE MADE IN THE PERIOD BETWEEN OCTOBER 1 AND  
13 NOVEMBER 15 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS  
14 SUBSECTION, AND ANNUALLY BETWEEN OCTOBER 1 AND NOVEMBER 15 OF  
15 EACH YEAR THEREAFTER.

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

20 (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA  
21 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL  
22 PERCENTAGE CHANGE DETERMINED UNDER PARAGRAPH (1) AND THE  
23 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER  
24 PARAGRAPHS (3) AND (4) AT WHICH COMPETITIVE BIDDING IS REQUIRED  
25 UNDER SUBSECTION (A) AND WRITTEN OR TELEPHONIC PRICE QUOTATIONS  
26 ARE REQUIRED UNDER SUBSECTION (B), RESPECTIVELY, FOR THE  
27 CALENDAR YEAR BEGINNING THE FIRST DAY OF JANUARY AFTER  
28 PUBLICATION OF THE NOTICE. THE NOTICE SHALL INCLUDE A WRITTEN  
29 AND ILLUSTRATIVE EXPLANATION OF THE CALCULATIONS PERFORMED BY  
30 THE DEPARTMENT IN ESTABLISHING THE UNADJUSTED OR FINAL ADJUSTED

1 BASE AMOUNTS UNDER THIS SUBSECTION FOR THE ENSUING CALENDAR  
2 YEAR.

3 (8) NO ADJUSTMENT TO THE BASE AMOUNTS SPECIFIED UNDER  
4 SUBSECTIONS (A) AND (B) SHALL EXCEED THREE PERCENT OF THE MOST  
5 RECENTLY ADJUSTED BASE AMOUNT.

6 (c) No county or municipal government shall evade the  
7 provisions of this section as to advertising for bids or  
8 purchasing materials or contracting for services piecemeal for  
9 the purpose of obtaining prices under [ten thousand dollars  
10 (\$10,000)] ~~twenty five thousand dollars (\$25,000)~~ THE BASE ←  
11 AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500)  
12 subject to adjustment under subsection (b.1) upon transactions  
13 which should, in the exercise of reasonable discretion and  
14 prudence, be conducted as one transaction amounting to more than  
15 [ten thousand dollars (\$10,000)] ~~twenty five thousand dollars~~ ←  
16 ~~(\$25,000)~~ THE BASE AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED ←  
17 DOLLARS (\$18,500) subject to adjustment under subsection (b.1).

18 This provision is intended to make unlawful the practice of  
19 evading advertising requirements by making a series of purchases  
20 or contracts each for less than the advertising requirement  
21 price or by making several simultaneous purchases or contracts  
22 each below said price, when in either case the transaction  
23 involved should have been made as one transaction for one price.

24 (d) Any member of a governing body of a county or  
25 municipality who votes to unlawfully evade the provisions of  
26 this section and who knows that the transaction upon which he so  
27 votes is or ought to be a part of a larger transaction and that  
28 it is being divided in order to evade the requirements as to  
29 advertising for bids commits a misdemeanor of the third degree  
30 for each contract entered into as a direct result of that vote.

1       (e) Every contract for the construction, reconstruction,  
2 alteration, repair, improvement or maintenance of public works  
3 shall comply with the provisions of the act of March 3, 1978  
4 (P.L.6, No.3), known as the "Steel Products Procurement Act."

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

8       Section 3. This act shall take effect immediately.