

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 296** Session of
2011

INTRODUCED BY EICHELBERGER, SCARNATI, KASUNIC, FOLMER, GORDNER,
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BAKER, ALLOWAY, BRUBAKER, GREENLEAF, FERLO, ROBBINS, VANCE,
EARLL, SMUCKER, McILHINNEY, PICCOLA, MENSCH AND BROWNE,
JANUARY 26, 2011

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 26, 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; and further providing for work to be
7 done under contract let on bids and exception, for purchase
8 of supplies, for contracts for construction, repair,
9 renovation or maintenance, for project contracts and for
10 powers and duties of institution presidents.

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

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

16 Section 119. Adjustments Based on Consumer Price Index.--

17 Adjustments to the base amounts shall be made as follows:

18 (1) The Department of Labor and Industry shall determine the
19 percentage change in the All Items Consumer Price Index for All
20 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
3 30, 2012, and for each successive twelve-month period
4 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.

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 (\$1,000)~~ HUNDRED DOLLARS
16 (\$100), to determine the final adjusted base amounts.

17 (4) In each successive year in which there is a positive
18 percentage change in the CPI-U for the United States City
19 Average, the positive percentage change shall be multiplied by
20 the most recent preliminary adjusted amounts and the products
21 shall be added to the preliminary adjusted amount of the prior
22 year to calculate the preliminary adjusted amounts for the
23 current year. The sums thereof shall be rounded to the nearest
24 one ~~thousand dollars (\$1,000)~~ HUNDRED DOLLARS (\$100) to
25 determine the new final adjusted base amounts.

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 section, and annually between October 1 and November 15 of each
30 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) at which competitive bidding is required
10 and written or telephonic price quotations are required,
11 respectively, for the calendar year beginning the first day of
12 January after publication of the notice. The notice shall
13 include a written and illustrative explanation of the
14 calculations performed by the department in establishing the
15 unadjusted or final adjusted base amounts under this section for
16 the ensuing calendar year.

17 ~~(8) No adjustment to the base amounts shall exceed three~~ ←
18 ~~percent of the most recently adjusted base amount. THE ANNUAL~~ ←
19 ~~INCREASE IN THE PRELIMINARY ADJUSTED BASE AMOUNTS OBTAINED UNDER~~
20 ~~PARAGRAPHS (3) AND (4) SHALL NOT EXCEED THREE PERCENT (3%).~~

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

24 Section 751. Work to be Done Under Contract Let on Bids;
25 Exception.--(a) All construction, reconstruction, repairs,
26 maintenance or work of any nature, including the introduction of
27 plumbing, heating and ventilating, or lighting systems, upon any
28 school building or upon any school property, or upon any
29 building or portion of a building leased under the provisions of
30 section 703.1, made by any school district, where the entire

1 cost, value, or amount of such construction, reconstruction,
2 repairs, maintenance or work, including labor and material,
3 shall exceed [ten thousand dollars (\$10,000)] a base amount of
4 eighteen thousand five hundred dollars (\$18,500), subject to
5 adjustment under section 119, shall be done under separate
6 contracts to be entered into by such school district with the
7 lowest responsible bidder, upon proper terms, after due public
8 notice has been given asking for competitive bids. Whenever a
9 board of school directors shall approve the use of a
10 prefabricated unit, complete in itself, for a school building or
11 other proper structure to be erected upon school property, the
12 board of school directors may have prepared appropriate
13 specifications detailing the size and material desired in a
14 particular prefabricated unit, including all utilities such as
15 plumbing, heating and ventilating, and electrical work, and may
16 advertise for a single bid on all the work and award the
17 contract therefor to the lowest responsible bidder: Provided,
18 That if due to an emergency a school plant or any part thereof
19 becomes unusable competitive bids for repairs or replacement may
20 be solicited from at least three responsible bidders, and upon
21 the approval of any of these bids by the Secretary of Education,
22 the board of school directors may proceed at once to make the
23 necessary repairs or replacements in accordance with the terms
24 of said approved bid or bids.

25 (a.1) Written or telephonic price quotations from at least
26 three qualified and responsible contractors shall be requested
27 by the board of school directors for all contracts that exceed
28 [four thousand dollars (\$4,000)] a base amount of ten thousand
29 dollars (\$10,000), subject to adjustment under section 119, but
30 are less than the amount requiring advertisement and competitive

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

12 (b) The board of school directors in any school district may
13 perform any construction, reconstruction, repairs, or work of
14 any nature, where the entire cost or value, including labor and
15 material, is less than [five thousand dollars (\$5000)] a base
16 amount of ten thousand dollars (\$10,000), subject to adjustment
17 under section 119, by its own maintenance personnel. The board
18 of school directors in any school district may authorize the
19 secretary of the board or other executive to award contracts for
20 construction, reconstruction, repairs, or work of any nature,
21 where the entire cost or value, including labor and material,
22 [is ten thousand dollars (\$10,000)] subject to adjustment under
23 section 119, is a base amount of eighteen thousand five hundred
24 dollars (\$18,500) or less, without soliciting competitive bids,
25 subject, however, to the provisions of subsection (a.1).

26 * * *

27 (f) No board of school directors shall evade the provisions
28 of this section as to advertising for bids or purchasing
29 materials or contracting for services piecemeal for the purpose
30 of obtaining prices under [ten thousand dollars (\$10,000)] a

1 base amount of eighteen thousand five hundred dollars (\$18,500),
2 subject to adjustment under section 119, upon transactions which
3 should, in the exercise of reasonable discretion and prudence,
4 be conducted as one transaction amounting to more than [ten
5 thousand dollars (\$10,000)] a base amount of eighteen thousand
6 five hundred dollars (\$18,500), subject to adjustment under
7 section 119. 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 transaction involved should have been made as one transaction
13 for one price.

14 Section 807.1. Purchase of Supplies.--(a) All furniture,
15 equipment, textbooks, school supplies and other appliances for
16 the use of the public schools, costing [ten thousand dollars
17 (\$10,000)], subject to adjustment under section 119, a base
18 amount of eighteen thousand five hundred dollars (\$18,500) or
19 more shall be purchased by the board of school directors only
20 after due advertisement as hereinafter provided. Supplies
21 costing [ten thousand dollars (\$10,000)], subject to adjustment
22 under section 119, a base amount of eighteen thousand five
23 hundred dollars (\$18,500) or more shall be purchased by the
24 board of school directors only after public notice has been
25 given by advertisement once a week for three (3) weeks in not
26 less than two (2) newspapers of general circulation. In any
27 district where no newspaper is published, said notice may, in
28 lieu of such publication, be posted in at least five (5) public
29 places.

30 (a.1) Written or telephonic price quotations from at least

1 three qualified and responsible vendors shall be requested by
2 the board of school directors for all purchases of supplies that
3 exceed [four thousand dollars (\$4,000)] a base amount of ten
4 thousand dollars (\$10,000), subject to adjustment under section
5 119, but are less than the amount requiring advertisement and
6 competitive bidding, or, in lieu of price quotations, a
7 memorandum shall be kept on file showing that fewer than three
8 qualified vendors exist in the market area within which it is
9 practicable to obtain quotations. A written record of telephonic
10 price quotations shall be made and shall contain at least the
11 date of the quotation, the name of the vendor and the vendor's
12 representative, the supplies which were the subject of the
13 quotation and the price of the supplies. Written price
14 quotations, written records of telephonic price quotations and
15 memoranda shall be retained for a period of three years.

16 (b) The board of school directors shall accept the bid of
17 the lowest responsible bidder, kind, quality, and material being
18 equal, but shall have the right to reject any and all bids, or
19 select a single item from any bid. The board of school directors
20 in any district may authorize or appoint the secretary of the
21 board or other executive as purchasing agent for the district,
22 with authority to purchase supplies [costing] that cost a base
23 amount of less than [ten thousand dollars (\$10,000)] eighteen
24 thousand five hundred dollars (\$18,500), subject to adjustment
25 under section 119.

26 (c) The following shall be exempt from the above provisions:
27 maps, music, globes, charts, educational films, filmstrips,
28 prepared transparencies and slides, pre-recorded magnetic tapes
29 and disc recordings, textbooks, games, toys, prepared kits,
30 flannel board materials, flash cards, models, projectuals and

1 teacher demonstration devices necessary for school use.

2 (d) No board of school directors shall evade the provisions
3 of this section as to advertising for bids or purchasing
4 materials piecemeal for the purpose of obtaining prices under
5 [ten thousand dollars (\$10,000)] the base amount of eighteen
6 thousand five hundred dollars (\$18,500), subject to adjustment
7 under section 119, upon transactions which should, in the
8 exercise of reasonable discretion and prudence, be conducted as
9 one transaction amounting to more than [ten thousand dollars
10 (\$10,000)] a base amount of eighteen thousand five hundred
11 dollars (\$18,500), subject to adjustment under section 119. This
12 provision is intended to make unlawful the practice of evading
13 advertising requirements by making a series of purchases or
14 contracts each for less than the advertising requirement price,
15 or by making several simultaneous purchases or contracts each
16 below said price, when in either case the transaction involved
17 should have been made as one transaction for one price.

18 Section 3. Section 1913-B.1(c) of the act, added December 9,
19 2002 (P.L.1472, No.187), is amended to read:

20 Section 1913-B.1. Contracts for Construction, Repair,
21 Renovation or Maintenance.--* * *

22 (c) All contracts, other than contracts for the retention of
23 architects and engineers, authorized by this section which
24 exceed [ten thousand dollars (\$10,000) or any larger amount as
25 otherwise provided for in 62 Pa.C.S. (relating to procurement)]
26 a base amount of eighteen thousand five hundred dollars
27 (\$18,500), subject to adjustment under section 119, shall be
28 advertised in the manner provided by law and competitively bid
29 and awarded to the lowest responsible bidder. In case of
30 emergencies and notwithstanding any other provision of this

1 section to the contrary, the board of trustees may make or
2 authorize others to make an emergency procurement whenever a
3 threat exists to public health, welfare or safety or
4 circumstances outside the control of the college and creates an
5 urgency of need which does not permit the delay involved in
6 using more formal competitive methods. Whenever practical, in
7 the case of a procurement of a supply, at least two (2) bids
8 shall be solicited. A written determination of the basis for the
9 emergency and for the selection of the particular contractor
10 shall be included in the contract file.

11 * * *

12 Section 4. Section 2003-A.1(c) of the act, amended April 27,
13 1998 (P.L.270, No.46), is amended and the section is amended by
14 adding a subsection to read:

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

16 (c) All contracts, other than contracts for the retention of
17 architects and engineers, authorized by this section which
18 exceed [ten thousand dollars (\$10,000)] a base amount of
19 eighteen thousand five hundred dollars (\$18,500), subject to
20 adjustment under subsection (c.1), shall be advertised in the
21 manner provided by law and competitively bid and awarded to the
22 lowest responsible bidder. In case of emergencies and
23 notwithstanding any other provision of this section to the
24 contrary, the chancellor may make or authorize others to make an
25 emergency procurement whenever a threat exists to public health,
26 welfare or safety or circumstances outside the control of the
27 State system and creates an urgency of need which does not
28 permit the delay involved in using more formal competitive
29 methods. Whenever practical, in the case of a procurement of a
30 supply, at least two (2) bids shall be solicited. A written

1 determination of the basis for the emergency and for the
2 selection of the particular contractor shall be included in the
3 contract file.

4 (c.1) Adjustments shall be made as follows:

5 (1) The Department of Labor and Industry shall calculate the
6 average annual percentage change in the All Items Consumer Price
7 Index for All Urban Consumers (CPI-U) for the United States City
8 Average as published by the United States Department of Labor,
9 Bureau of Labor Statistics, for the twelve-month period ending
10 September 30, 2012, and for each successive twelve-month period
11 thereafter.

12 (1.1) IF THE DEPARTMENT DETERMINES THAT THERE IS NO POSITIVE ←
13 PERCENTAGE CHANGE, THEN NO ADJUSTMENT TO THE BASE AMOUNTS SHALL
14 OCCUR FOR THE RELEVANT TIME PERIOD.

15 (2) The positive percentage change, as determined in
16 accordance with clause (1), shall be multiplied by the amount
17 applicable under subsection (c) for the current period and the
18 product thereof shall be added to the amount applicable under
19 subsection (c) for the current period, with the result rounded
20 to the nearest multiple of one thousand dollars (\$1,000) HUNDRED ←
21 DOLLARS (\$100).

22 (3) The determination required under clause (1) and the
23 calculation adjustments required under clause (2) shall be made
24 in the period between October 1 and November 15 of the year
25 following the effective date of this subsection, and between
26 October 1 and November 15 of each successive year.

27 (4) The adjusted amounts obtained in accordance with clause
28 (2) shall become effective January 1 for the period following
29 the year in which the determination required under clause (1) is
30 made.

1 (5) The Department of Labor and Industry shall give notice
2 in the Pennsylvania Bulletin prior to January 1 of each calendar
3 year in which the percentage change is determined in accordance
4 with clause (1) of the amounts, whether adjusted or unadjusted
5 in accordance with clause (2), at which competitive bidding is
6 required under subsection (c) for the period beginning the first
7 day of January after publication of the notice.

8 ~~(6) No adjustment to the base amounts shall exceed three~~ ←
9 ~~percent of the most recently adjusted base amount. THE ANNUAL~~ ←
10 INCREASE IN THE PRELIMINARY ADJUSTED BASE AMOUNTS OBTAINED UNDER
11 CLAUSES (3) AND (4) SHALL NOT EXCEED THREE PERCENT (3%).

12 * * *

13 Section 4.1. Section 2010-A of the act, amended April 27,
14 1998 (P.L.270, No.46), is amended to read:

15 Section 2010-A. Power and Duties of Institution
16 Presidents.--The president of each institution shall be
17 appointed by the board. The president shall be the chief
18 executive officer of that institution. He shall have the right
19 to attend all meetings of the council of that institution and
20 shall have the right to speak on all matters before the council
21 but not to vote. Subject to the stated authority of the board
22 and the council, each president shall have the following powers
23 and duties:

24 * * *

25 (10) Within the limitations of the operating budget and
26 other available funds in accordance with the procedures
27 established by the board and with the approval of the local
28 council, to negotiate and award all contracts for equipment,
29 services and supplies in excess of a cost of [ten thousand
30 dollars (\$10,000)] a base amount of eighteen thousand five

1 hundred dollars (\$18,500), subject to adjustment under section
2 119, on a competitive bid basis and to purchase instructional,
3 educational, extracurricular, technical, administrative,
4 custodial and maintenance equipment and supplies not in excess
5 of a cost of [ten thousand dollars (\$10,000)] a base amount of
6 eighteen thousand five hundred dollars (\$18,500), subject to
7 adjustment under section 119, without competitive bidding,
8 except that such items shall not be bought in series to avoid
9 the dollar ceiling.

10 * * *

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

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