



Senate Box 203078  
Harrisburg, PA 17120-3078  
(717) 787-7680  
Fax (717) 772-4524  
[www.lgc.state.pa.us](http://www.lgc.state.pa.us)

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**Senate Bill 778, Printer's Number 938**

**Amending Act 78 of 1979 ("No Bid" Law) –  
Award of contract when no bids are received**

**PROPOSAL/SUMMARY:** This legislation would amend Act 78 of 1979<sup>1</sup> to authorize political subdivisions and authorities to enter into contracts for *services* when two consecutive advertisements fail to induce bids. For purposes of this legislation, "services" include the furnishing of labor, time or effort by a contractor not involving the delivery of a specific end product other than drawings, specifications, or reports, which are merely incidental to the required performance. The term includes the routine operation or maintenance of existing structures, buildings or real property, the repair or rehabilitation of existing infrastructure, and utility services or those services formerly provided by public utilities such as electrical, telephone, water and sewage service. The term does not include employment agreements or collective bargaining agreements.

Under the provisions of this legislation, when a political subdivision, municipality authority or transportation authority is required to advertise for bids in order to enter into a contract for services and no bids are received, the political subdivision or authority may advertise for bids a second time. In the event that no bids are received within 15 days of the second advertisement, the political subdivision or authority may initiate negotiations for a contract for services with any provider not otherwise disqualified by law or an enactment or policy of the governing body.

Prior to the execution of the contract, the political subdivision or authority will be required to disclose at a regular or special public meeting the identity of the parties, the proposed contract price and a summary of the other terms and conditions relating to the proposed contract in order to demonstrate that the services sought are consistent with those previously advertised.

The amendment would also specify that misuse of the provisions of the act to evade advertising requirements would subject a member of the governing body to the same penalties that exist in the applicable competitive bidding law.

<sup>1</sup> An Act "Authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received."

CURRENT LAW: Act 78 authorizes political subdivisions, municipal authorities and transportation authorities to enter into contracts for the purchase of *goods and the sale of real and personal property* when no bids are received. The law's exclusion of services means that a political subdivision or authority has no recourse to complete a project for which a bid for *services*, including construction or repairs, has been sought and not received absent someone finally responding to additional bid requests or someone agreeing to do the project at a rate below the bidding threshold.