THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 99  Session of 2017

INTRODUCED BY ZIMMERMAN, BAKER, GREINER, MILLARD, PICKETT, HICKERNELL, MENTZER, PEIFER, WARD, FLYNN, RADER, B. MILLER, GILLEN, MEHAFFIE AND KORTZ, JANUARY 23, 2017

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 15, 2018

AN ACT

Amending Title 8 (Boroughs and Incorporated Towns) of the Pennsylvania Consolidated Statutes, in contracts, further providing for regulation of contracts.

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

Section 1. Section 1402(d)(1), (4)(ii) and (iii) and (6) of Title 8 of the Pennsylvania Consolidated Statutes are amended and the subsection is amended by adding a paragraph to read:

§ 1402. Regulation of contracts.

* * *

(d) Contracts or purchases.--The contracts or purchases made by council, which shall not require advertising, bidding or price quotations as provided in this part, are as follows:

(1) Those for emergencies or for maintenance, repairs or replacements for water, electricity or public works of the borough, if they do not constitute new additions, extensions--
or enlargements of existing facilities and equipment, but
security may be required by council, as in other cases of
work done. For those contracts or purchases made in cases of
emergencies, the actual emergency and the nature of the
procurement shall be stated in a resolution by council and
adopted at the next public meeting.

(1) THOSE FOR ROUTINE MAINTENANCE, REPAIRS OR
REPLACEMENTS FOR WATER, ELECTRICITY OR PUBLIC WORKS OF THE
BOROUGH, IF THEY DO NOT CONSTITUTE NEW ADDITIONS, EXTENSIONS
OR ENLARGEMENTS OF EXISTING FACILITIES AND EQUIPMENT, BUT
SECURITY MAY BE REQUIRED BY COUNCIL, AS IN OTHER CASES OF
WORK Done.

(1.1) THOSE FOR EMERGENCY MAINTENANCE, REPAIRS OR
REPLACEMENTS FOR WATER, ELECTRICITY OR PUBLIC WORKS OF THE
BOROUGH, IF THEY DO NOT CONSTITUTE NEW ADDITIONS, EXTENSIONS
OR ENLARGEMENTS OF EXISTING FACILITIES AND EQUIPMENT, BUT
SECURITY MAY BE REQUIRED BY COUNCIL, AS IN OTHER CASES OF
WORK Done. THE ACTUAL EMERGENCY AND THE NATURE OF THE
PROCUREMENT SHALL BE STATED IN A RESOLUTION BY COUNCIL AND
ADOPTED AT THE NEXT PUBLIC MEETING.

(1.2) THOSE FOR THE MITIGATION OF A REAL OR POTENTIAL
EMERGENCY INVOLVING A CLEAR AND PRESENT DANGER TO THE HEALTH,
SAFETY AND WELFARE OF THE RESIDENTS OF THE BOROUGH. FOR THOSE
CONTRACTS OR PURCHASES MADE IN CASES OF EMERGENCIES, THE
ACTUAL EMERGENCY AND THE NATURE OF THE PROCUREMENT SHALL BE
STATED IN A RESOLUTION BY COUNCIL AND ADOPTED AT THE NEXT
PUBLIC MEETING.

* * *

(4) * * *

(ii) Those made for utility service for borough

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purposes, including, but not limited to, those made for natural gas or telecommunications services and electricity.

[(iii) Those made for electricity with the entities set forth in paragraph (6)(i), (ii), (iii), (iv), (v), (vi) and (vii)(A).]

* * *

(6) Those made relating to the purchase of electricity and associated energy and related services by a borough owning or operating electric generation or distribution facilities [on January 1, 1966,] with any of the following:

(i) A political subdivision.
(ii) Another state.
(iii) The Commonwealth or a Commonwealth agency.
(v) A private corporation.
(vi) An electric cooperative corporation under 15 Pa.C.S. Ch. 73 (relating to electric cooperative corporations).
(vii) A nonprofit membership corporation. As used in this subparagraph, the term "nonprofit membership corporation" means an entity, the membership of which:
   (A) consists solely of Commonwealth boroughs, such as a consortium, buying group or municipal power agency under section 24A04 (relating to municipal power agencies); or
   (B) consists of Commonwealth boroughs and political subdivisions of another state.
(viii) An electric cooperative of another state.

Nothing in this paragraph prohibits council from engaging in
advertising, bidding or price quotations if the council
determines that the advertising, bidding or price quotations
are in the public interest.

(7) Those made for materials and supplies or equipment
rental under emergency conditions under 35 Pa.C.S. Pt. V
(relating to emergency management services).

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Section 2. This act shall take effect in 60 days.