

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 329 Session of 2023

INTRODUCED BY STAMBAUGH AND ZIMMERMAN, MARCH 13, 2023

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 13, 2023

AN ACT

1 Amending the act of May 1, 1913 (P.L.155, No.104), entitled "An
 2 act regulating the letting of certain contracts for the
 3 erection, construction, and alteration of public buildings,"
 4 increasing the minimum bid requirement; and providing for
 5 evasion of requirements.

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

8 Section 1. Section 1 of the act of May 1, 1913 (P.L.155,
 9 No.104), referred to as the Separations Act, is amended to read:

10 Section 1. (a) Be it enacted, &c., That hereafter in the
 11 preparation of specifications for the erection, construction,
 12 and alteration of any public building, when the entire cost of
 13 such work shall exceed [four thousand dollars] two hundred fifty
 14 thousand dollars, subject to annual adjustment under subsection
 15 (b), it shall be the duty of the architect, engineer, or other
 16 person preparing such specifications, to prepare separate
 17 specifications for the plumbing, heating, ventilating, and
 18 electrical work; and it shall be the duty of the person or
 19 persons authorized to enter into contracts for the erection,
 20 construction, or alteration of such public buildings to receive

1 separate bids upon each of the said branches of work, and to
2 award the contract for the same to the lowest responsible bidder
3 for each of said branches.

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

8 (b) Adjustments to the threshold specified under subsection
9 (a) shall be made as follows:

10 (1) The Department of Labor and Industry shall determine the
11 percentage change in the Consumer Price Index for All Urban
12 Consumers: All Items (CPI-U) for the United States City Average
13 as published by the United States Department of Labor, Bureau of
14 Labor Statistics, for the twelve-month period ending September
15 30, 2021, and for each successive twelve-month period
16 thereafter.

17 (2) If the Department of Labor and Industry determines that
18 there is no positive percentage change, no adjustment to the
19 threshold amount shall occur for the relevant time period.

20 (3) The following apply:

21 (i) If the Department of Labor and Industry determines that
22 there is a positive percentage change in the first year the
23 determination is made under paragraph (1), the positive
24 percentage change shall be multiplied by the threshold amount,
25 and the product shall be added to the base threshold amount, and
26 the sum shall be the preliminary adjusted amount.

27 (ii) The preliminary adjusted amount shall be rounded to the
28 nearest one hundred dollars to determine the final adjusted
29 threshold amount for purposes of subsection (a).

30 (4) In each successive year in which there is a positive

1 percentage change in the CPI-U for the United States City
2 Average, the positive percentage change shall be multiplied by
3 the most recent threshold amount, and the product shall be added
4 to the threshold amount of the prior year to calculate the
5 preliminary adjusted amount for the current year. The sum shall
6 be rounded to the nearest one hundred dollars to determine the
7 new final adjusted threshold amount for purposes of subsection
8 (a).

9 (5) The determinations and adjustments required under this
10 subsection shall be made in the period between October 1 and
11 November 15, 2023, and annually between October 1 and November
12 15 of each year thereafter.

13 (6) The final adjusted threshold amount and new final
14 adjusted threshold amount obtained under paragraphs (3) and (4)
15 shall become effective January 1 for the calendar year following
16 the year in which the determination required under paragraph (1)
17 is made.

18 (7) The Department of Labor and Industry shall transmit
19 notice to the Legislative Reference Bureau for publication in
20 the Pennsylvania Bulletin prior to January 1 of each calendar
21 year of the annual percentage change determined under paragraph
22 (1) and the final adjusted threshold amount for the calendar
23 year beginning the first day of January after publication of the
24 notice. The notice shall include a written and illustrative
25 explanation of the calculations performed by the Department of
26 Labor and Industry in establishing the unadjusted or final
27 adjusted threshold amount.

28 Section 2. The act is amended by adding a section to read:

29 Section 1.1. No person shall evade the provisions of section
30 1 by purchasing or contracting for services and personal

1 properties piecemeal to obtain prices under the required
2 advertising price, subject to annual adjustment under section
3 1(b). The following apply:

4 (1) This section is intended to make unlawful the making of
5 a series of purchases or contracts each for less than the price
6 to which section 1 applies, or making several simultaneous
7 purchases or contracts, each for less than the advertising
8 requirement price, when in either case, the transactions
9 involved should have been made as one transaction for one price.

10 (2) A person who violates this section, and who knows that
11 the transaction in question is or ought to be a part of a larger
12 transaction and that it is being divided in order to evade the
13 requirements of section 1, shall be, jointly and severally,
14 subject to surcharge for ten per centum of the full amount of
15 the contract or purchase.

16 Section 3. The amendment or addition of sections 1 and 1.1
17 of the act shall apply to contracts and purchases advertised on
18 or after the effective date of this section.

19 Section 4. This act shall take effect in 60 days.