

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 638

Session of  
1987

INTRODUCED BY GODSHALL, LLOYD, KUKOVICH, OLASZ, WOGAN, MRKONIC,  
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MARCH 4, 1987

AS REPORTED FROM COMMITTEE ON URBAN AFFAIRS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, OCTOBER 20, 1987

## AN ACT

1 Amending the act of June 25, 1919 (P.L.581, No.274), entitled  
2 "An act for the better government of cities of the first  
3 class of this Commonwealth," restricting certain persons from  
4 bidding on contracts.

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

7 Section 1. Article XX of the act of June 25, 1919 (P.L.581,  
8 No.274), referred to as the First Class City Government Law, is  
9 amended by adding a section to read:

10 ARTICLE XX.

11 City Contracts.

12 \* \* \*

13 Section 7. (a) No person who or entity which, as a  
14 contractor or subcontractor, supplied goods or services to a  
15 government or government instrumentality and has been convicted  
16 of, or has pleaded guilty or nolo contendere to, a Federal or  
17 State crime involving fraud upon a government or a government

1 instrumentality for acts or omissions arising out of the  
2 supplying of goods or services, OR WHO HAS BEEN FOUND BY AN  
3 APPROPRIATE ADMINISTRATIVE AGENCY TO HAVE COMMITTED FRAUD IN THE  
4 PERFORMANCE OF A CONTRACT WITH A GOVERNMENT OR A GOVERNMENT  
5 INSTRUMENTALITY AND THAT FINDING HAS NOT BEEN REVERSED ON  
6 APPEAL, and no entity in which that person or entity has a  
7 substantial interest, may bid on a contract for a period of  
8 three years after such conviction or plea. For purposes of this  
9 subsection, the following words and phrases shall have the  
10 following meanings:

11 (1) "Crime" means any criminal act committed after the  
12 effective date of this amendatory act for which the maximum  
13 possible penalty exceeds a fine of three hundred dollars (\$300)  
14 or exceeds imprisonment for ninety days.

15 (2) "Entity" means any association, corporation, limited  
16 partnership, partnership, or other business or nonprofit  
17 organization.

18 (3) "Fraud" includes, but is not limited to:

19 I. A misrepresentation of a material fact that is not made  
20 honestly and in good faith.

21 II. A promise, representation or prediction as to the future  
22 that is not made honestly and in good faith.

23 III. An intentional failure to disclose a material fact.

24 IV. A fictitious or pretended purchase or sale of a  
25 security.

26 V. The gaining, through the sale of a security, of an  
27 underwriting or promotion fee or profit or a selling or managing  
28 fee or profit that is so gross or exorbitant as to be  
29 unconscionable, including a scheme, device or artifice to obtain  
30 such a profit, fee or commission.

1 VI. A scheme, device or artifice to defraud a prospective or  
2 actual customer, client or subscriber of securities, money or  
3 property.

4 (4) "State" means the District of Columbia or any  
5 possession, state, territory or trusteeship of the United  
6 States.

7 (5) "Substantial interest" means serving as a director OF A <—  
8 FOR-PROFIT ORGANIZATION, limited partner, officer, partner, or  
9 proprietor, or owning more than ten per centum of the number of  
10 shares of voting stock or more than twenty per centum of the  
11 total number of shares of stock.

12 (b) The county may require the following information to be  
13 submitted with the bid: a sworn statement by the bidder and, if  
14 the affiant is an entity, by every person or entity having a  
15 substantial interest therein, listing all Federal and state  
16 convictions of, and pleas of guilty or nolo contendere to, any  
17 crime within three years prior to the date of the statement,  
18 said statement to be dated no more than one week prior to the  
19 date set for the opening of bids.

20 (c) In the case of a bid involving the collection,  
21 transportation, treatment, storage or disposal of solid waste or  
22 hazardous waste under the act of July 7, 1980 (P.L.380, No.97),  
23 known as the "Solid Waste Management Act," the following shall  
24 apply:

25 I. A bid may be rejected by the city council if the city  
26 council has reason to believe that the bidder's responsibility,  
27 character and general fitness for business do not command the  
28 confidence of the public and may not be conducive to the honest  
29 and efficient conduct of business in the best interest of the  
30 public, or if the bidder's prior performance record in the

collection, transportation, treatment, storage or disposal of solid waste exhibited insufficient reliability, expertise or competency to warrant the belief that the bidder would be likely to exhibit sufficient reliability, expertise or competence with respect to the contract being bid.

II. The city may require the following information to be submitted with the bid: if the bidder has an equity interest in a company which collects, transports, treats, stores or disposes of solid waste or hazardous waste, the name and address of that company; a description of the bidder's experience and credentials in collection, transportation, treatment, storage or disposal of solid waste or hazardous waste, including past or present licenses; if the bidder is an entity, the names of the officers and directors or partners; a list and explanation of Federal, State and local notices of violation, prosecutions, administrative orders and license revocations, for the ten years immediately preceding the bid submission, if the action is pending or has resulted in a finding or a settlement of a violation of law by the bidder or its employes, and, in the case of an entity, by an officer or director or a partner, relating to the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste; a list and explanation of judgments of civil liability and convictions against the bidder or its employes and, in the case of an entity, against an officer or director or a partner; a list of agencies outside of this Commonwealth which had regulatory authority over the bidder in connection with the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste; other information that the city council deems relevant to the competency, reliability or good character of the

1 bidder.

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