
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 346 Session of
1989

INTRODUCED BY DORR, LETTERMAN, FLICK, CAPPABIANCA, SERAFINI,
GODSHALL, PRESTON, HAGARTY, BURD, LINTON, G. SNYDER, GEIST,
HALUSKA, CLYMER, NOYE, FOX, DISTLER, WOGAN, HERMAN, SEMMEL,
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HERSHEY, VROON, LEH, BELFANTI, CIVERA, RAYMOND, McVERRY,
LASHINGER, MARSICO AND ROBBINS, FEBRUARY 8, 1989

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, FEBRUARY 8, 1989

AN ACT

1 Providing for the payment of interest on purchases by political
2 subdivisions.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Political
7 Subdivision Procurement Interest Payment Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Business concern." Any person engaged in a trade or
13 business and operating as a contractor with a political
14 subdivision, or a nonprofit entity operating as a contractor

1 with a political subdivision.

2 "Local authority." A municipal authority or any other body
3 corporate and politically created by one or more political
4 subdivisions pursuant to statute.

5 "Payment made." A payment shall be considered made on the
6 date on which a check for such payment is dated.

7 "Political subdivision." Any county, city, borough,
8 incorporated town, township, school district, vocational school
9 district, county institution district, local authority or any
10 joint or cooperative body of political subdivisions having the
11 power to enter into contracts.

12 "Proper invoice." An invoice which contains or is
13 accompanied by such substantiating documentation as the
14 political subdivision involved may require by regulation or
15 contract.

16 "Qualified small business concern." Any independently owned
17 and operated for-profit business concern employing 100 or fewer
18 employees.

19 "Received invoice." Any invoice received by a political
20 subdivision on the later of:

21 (i) the date on which the political subdivision's
22 designated payment office or finance center actually receives
23 a proper invoice; or

24 (ii) the date on which the political subdivision accepts
25 the property or service concerned.

26 Section 3. Political subdivision interest payments.

27 (a) General rule.--

28 (1) In accordance with the provisions of paragraph (2),
29 each political subdivision which acquires property or
30 services from a business concern or a qualified small

1 business concern but which does not make payment for each
2 complete delivered item of property or service by the
3 required payment date shall pay an interest penalty to such
4 business concern and to any qualified small business concern,
5 in accordance with this section on the amount of the payment
6 which is due.

7 (2) All of the following conditions shall apply for the
8 payment of interest by a political subdivision:

9 (i) The required payment date shall be:

10 (A) the date on which payment is due under the
11 terms of the contract for the provision of such
12 property or service; or

13 (B) thirty calendar days after receipt of a
14 proper invoice for the amount of the payment due, if
15 a specific date on which payment is due is not
16 established by contract.

17 (ii) Separate required payment dates for contracts
18 under which property or services are provided in a series
19 of partial executions or deliveries shall be established,
20 to the extent that such contract provides for separate
21 payment of such partial execution or delivery.

22 (iii) Prior to the date upon which payment without
23 an interest penalty is due, a political subdivision shall
24 notify the business concern or qualified small business
25 concern of any defect in goods and services or
26 impropriety in such invoice which would prevent the
27 running of the time periods specified in this paragraph.

28 (iv) A qualified small business concern shall
29 present on or with the invoice a statement that it meets
30 the definition of a qualified small business concern

1 contained in this section.

2 (b) Due date of payment.--

3 (1) Interest penalties payable on amounts due to a
4 business concern or qualified small business concern under
5 this section shall be paid to the business concern for the
6 period beginning on the day after the required payment date
7 and ending on the date on which payment on the amount due is
8 made.

9 (2) Interest shall be computed at the rate determined by
10 the Secretary of Revenue for interest payments on overdue
11 taxes or the refund of taxes as provided in sections 806 and
12 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as
13 The Fiscal Code, and any subsequent amendments to those
14 sections.

15 (3) Interest may be paid by separate payment made to a
16 business concern or qualified small business concern within
17 30 days of payment of the original invoice.

18 (4) Any amount of an interest penalty imposed because of
19 a debt which remains unpaid at the end of any 30-day period
20 shall be added to the principle amount of the debt and
21 thereafter interest penalties shall accrue on such added
22 amount.

23 (c) Funds for interest payment.--A political subdivision
24 shall pay any interest penalties required by this section out of
25 funds made available for the administration or operation of the
26 program for which the penalty was incurred, or from general
27 administrative funds of the political subdivision. Nothing in
28 this section shall be construed to require payment of interest
29 penalties from State or Federal funds if such payment is
30 prohibited by State or Federal law or regulation.

1 (d) Claims.--Claims for interest penalties which a political
2 subdivision has failed to pay in accordance with the
3 requirements of this section shall be made in a formal civil
4 action against the offending political subdivision following the
5 exhaustion of all contractual remedies.

6 (e) Disputes.--This section shall not be construed to
7 require interest penalties on payments which are not made by the
8 required payment date by reason of a dispute between a political
9 subdivision and a business concern or qualified small business
10 concern over the amount of that payment or other allegations
11 concerning compliance with a contract.

12 Section 4. Nonapplication of act.

13 This act shall not apply to any "public contracts" subject to
14 the act of November 26, 1978 (P.L.1309, No.317), referred to as
15 the Public Works Contract Regulation Law.

16 Section 5. Applicability.

17 This act shall apply to all contracts entered into on or
18 after July 1, 1989.

19 Section 6. Effective date.

20 This act shall take effect in 60 days.