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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 453**      Session of  
1989

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INTRODUCED BY GREENLEAF, BELL, FISHER, AFFLERBACH, PETERSON,  
GREENWOOD, RHOADES, SHAFFER, ANDREZESKI, JONES AND  
PORTERFIELD, FEBRUARY 6, 1989

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REFERRED TO LOCAL GOVERNMENT, FEBRUARY 6, 1989

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AN ACT

1 Prohibiting certain persons and enterprises from bidding on  
2 municipal contracts.

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

5 Section 1. Definitions.

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

9 "Agent." Any director, officer, servant, employee or other  
10 person authorized to act in behalf of the corporation or  
11 association and, in the case of an unincorporated association, a  
12 member of the association.

13 "Conviction." An entry of a plea of guilty or a plea of nolo  
14 contendere, or a verdict of guilty by a jury or a judge sitting  
15 without a jury. The conviction shall be considered final for the  
16 purpose of this act after the imposition of sentence.

17 "Enterprise." Any individual, partnership, corporation,

1 association or other legal entity and any union or group of  
2 individuals associated in fact although not a legal entity,  
3 engaged in commerce.

4 "High managerial agent." An officer of a corporation or an  
5 unincorporated association, or in the case of a partnership, a  
6 partner, or any other agent of a corporation or association  
7 having duties of such responsibility that his conduct may fairly  
8 be assumed to represent the policy of the corporation or  
9 association.

10 "Municipal contracts." Any contract entered into by a  
11 municipality where bidding is required by statute.

12 "Municipality." A county, city, borough, incorporated town,  
13 township, school district or municipal authority.

14 "Person." An individual or entity capable of holding a legal  
15 and official interest in property.

16 "Substantial stockholder." A stockholder who in the  
17 aggregate, directly or indirectly, owns or controls 5% of the  
18 outstanding securities of any one class of stock.

19 Section 2. Bidding prohibitions.

20 (a) Persons.--It shall be unlawful for any person, who has  
21 previously been convicted of any of the following crimes, to bid  
22 on any municipal contract which, by statute, requires bidding:

23 18 Pa.C.S. § 911 (relating to corrupt organizations).

24 18 Pa.C.S. Ch. 39 (relating to theft and related  
25 offenses) where the victim is a municipality.

26 18 Pa.C.S. § 4108 (relating to commercial bribery and  
27 breach of duty to act disinterestedly) where any participant  
28 to the said crime was a municipal employee.

29 18 Pa.C.S. Ch. 47 (relating to bribery and corrupt  
30 influence).

1 (b) Enterprises.--It shall be unlawful for any enterprise,  
2 which has previously been convicted of any of the following  
3 crimes, to bid on any municipal contract which, by statute,  
4 requires bidding:

5 18 Pa.C.S. § 911.

6 18 Pa.C.S. Ch. 39.

7 18 Pa.C.S. § 4108 where any participant to the said crime  
8 was a municipal employee.

9 18 Pa.C.S. Ch. 47.

10 (c) Certain other enterprises.--It shall be unlawful for any  
11 enterprise, where any of its agents, high managerial agents or  
12 substantial stockholders have previously been convicted of any  
13 of the following crimes, to bid on any municipal contract which,  
14 by statute, requires bidding:

15 18 Pa.C.S. § 911.

16 18 Pa.C.S. Ch. 39.

17 18 Pa.C.S. § 4108 where any participant to the said crime  
18 was a municipal employee.

19 18 Pa.C.S. Ch. 47.

20 Section 3. Responsible bidders.

21 No person or enterprise which falls within the provisions of  
22 section 2 shall be considered a responsible bidder on any  
23 municipal contract requiring bids.

24 Section 4. Bidders to file affidavit.

25 All bidders on municipal contracts shall file with their bid  
26 an affidavit stating that they are not prohibited from entering  
27 their bid by reason of disqualification under section 2. The  
28 affidavit shall be signed under penalty of perjury.

29 Section 5. Municipality prohibited from awarding contracts.

30 It shall be unlawful for any municipality to award a

1 municipal contract to any enterprise or entity which is  
2 prohibited to bid on the contract by section 2.

3 Section 6. Certain contracts void.

4 Any contract entered into in violation of section 2 is void  
5 ab initio and no action in quantum meruit shall be permitted for  
6 recovery against any municipality.

7 Section 7. Effective date.

8 This act shall take effect in 60 days.