

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 742 Session of 1989

INTRODUCED BY STOUT, CORMAN, STEWART, BRIGHTBILL, PUNT, LEMMOND, PORTERFIELD, WENGER, MADIGAN, AFFLERBACH, REIBMAN AND PETERSON, MARCH 21, 1989

SENATOR PECORA, LOCAL GOVERNMENT, AS AMENDED, MAY 2, 1989

AN ACT

1 Amending the act of August 9, 1955 (P.L.323, No.130), entitled
2 "An act relating to counties of the third, fourth, fifth,
3 sixth, seventh and eighth classes; amending, revising,
4 consolidating and changing the laws relating thereto,"
5 further regulating contracts and purchases as to bids and
6 advertising.

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

9 Section 1. ~~Section 1801, subsections (a), (b) and the first~~ <—
10 ~~paragraph of (h) of section 1802 and section~~ SECTIONS 1801, <—
11 1802(A), (B) AND (H) AND 1803 of the act of August 9, 1955
12 (P.L.323, No.130), known as The County Code, amended December
13 22, 1981 (P.L.580, No.167), are amended to read:

14 Section 1801. Commissioners Sole Contractors for County.--
15 The county commissioners shall contract for and purchase all
16 services referred to in section five hundred eight and personal
17 property for county officers and agencies. All contracts and
18 purchases not in excess of [four thousand dollars (\$4,000)] ten
19 thousand dollars (\$10,000) shall be by note or memorandum, in

1 writing, signed by the county commissioners, or their agent. A
2 copy of all such notes and memorandums and all written contracts
3 shall be filed in the office of the controller, if any, and, if
4 not, then with the chief clerk of the commissioners. The
5 commissioners shall, where possible, anticipate the needs of the
6 various officers and agencies of the county and endeavor to
7 purchase in wholesale quantities, where practicable and where
8 savings could be achieved thereby. The commissioners may make
9 contracts and purchases for all purposes expressly or impliedly
10 authorized by law.

11 Section 1802. Contract Procedures; Terms and Bonds;
12 Advertising for Bids.--(a) All contracts for services and
13 personal property where the amount thereof exceeds the sum of
14 [four thousand dollars (\$4,000)] ten thousand dollars (\$10,000),
15 shall be written and shall, except as otherwise hereinafter
16 specified, be made by advertising for bids.

17 (b) Contracts or purchases in excess of [four thousand
18 dollars (\$4,000)] ten thousand dollars (\$10,000), except those
19 hereinafter mentioned, shall not be made except with and from the
20 lowest responsible bidder, after due notice in one newspaper of
21 general circulation, published or circulating in the county, at
22 least three times at intervals of not less than three days where
23 daily newspapers of general circulation are employed for such
24 publication, or in case weekly newspapers are employed then the
25 notice shall be published once a week for two successive weeks.
26 The first advertisement shall be published not less than ten
27 days prior to the date fixed for the opening of bids. The
28 requirements of this subsection need not be followed in cases of
29 emergency, but in such cases the actual emergency shall be
30 declared and stated by resolution of the commissioners.

1 * * *

2 (h) The contracts or purchases made by the commissioners
3 involving an expenditure of over [four thousand dollars
4 (\$4,000)] ten thousand dollars (\$10,000)] which shall not
5 require advertising or bidding, as hereinbefore provided, are as
6 follows:

7 (1) THOSE FOR MAINTENANCE, REPAIRS OR REPLACEMENTS FOR ←
8 WATER, ELECTRIC LIGHT, OR OTHER PUBLIC WORKS OF THE COUNTY WHERE
9 THEY DO NOT CONSTITUTE NEW ADDITIONS, EXTENSIONS OR ENLARGEMENTS
10 OF EXISTING FACILITIES AND EQUIPMENT. A BOND MAY BE REQUIRED BY
11 THE COMMISSIONERS AS IN OTHER CASES FOR WORK DONE.

12 (2) THOSE MADE FOR IMPROVEMENTS, REPAIRS AND MAINTENANCE OF
13 ANY KIND, MADE OR PROVIDED BY THE COUNTY THROUGH ITS OWN
14 EMPLOYEES. THIS SHALL NOT APPLY TO CONSTRUCTION MATERIALS USED IN
15 A STREET IMPROVEMENT.

16 (3) THOSE WHERE PARTICULAR TYPES, MODELS OR PIECES OF NEW
17 EQUIPMENT, ARTICLES, APPARATUS, APPLIANCES, VEHICLES OR PARTS
18 THEREOF, ARE DESIRED BY THE COMMISSIONERS, WHICH ARE PATENTED
19 AND MANUFACTURED OR COPYRIGHTED PRODUCTS.

20 (4) THOSE INVOLVING ANY POLICIES OF INSURANCE OR SURETY
21 COMPANY BONDS, THOSE MADE FOR PUBLIC UTILITY SERVICE UNDER
22 TARIFFS ON FILE WITH THE PENNSYLVANIA PUBLIC UTILITY COMMISSION,
23 THOSE MADE WITH ANOTHER POLITICAL SUBDIVISION, THE COMMONWEALTH
24 OF PENNSYLVANIA, THE FEDERAL GOVERNMENT, ANY AGENCY OF THE
25 COMMONWEALTH OR THE FEDERAL GOVERNMENT OR ANY MUNICIPAL
26 AUTHORITY, INCLUDING THE SALE, LEASING OR LOAN OF ANY SUPPLIES
27 OR MATERIALS BY THE COMMONWEALTH OR THE FEDERAL GOVERNMENT OR
28 THEIR AGENCIES, BUT THE PRICE THEREOF SHALL NOT BE IN EXCESS OF
29 THAT FIXED BY THE COMMONWEALTH, OR THE FEDERAL GOVERNMENT, OR
30 THEIR RESPECTIVE AGENCIES.

1 (5) THOSE INVOLVING SERVICES OF MEMBERS OF THE MEDICAL OR
2 LEGAL PROFESSION, REGISTERED ARCHITECTS, ENGINEERS, CERTIFIED
3 PUBLIC ACCOUNTANTS OR OTHER PERSONAL SERVICES INVOLVING
4 PROFESSIONAL EXPERT ADVICE.

5 (6) THOSE INVOLVING CONTRACTS ENTERED INTO BY NONPROFIT
6 COOPERATIVE HOSPITAL SERVICE ASSOCIATIONS FOR HOSPITALS AND
7 NURSING HOMES WHICH ARE PART OF THE INSTITUTIONAL DISTRICT OR
8 WHICH ARE OWNED BY THE COUNTY; OPERATED BY THE COUNTY; OR
9 AFFILIATED WITH THE COUNTY BY THE PURCHASING OF, OR
10 PARTICIPATING IN CONTRACTS FOR, MATERIALS, SUPPLIES AND
11 EQUIPMENT.

12 * * *

13 Section 1803. Evasion of Advertising Requirements.--No
14 commissioner or commissioners shall evade the provisions of
15 section one thousand eight hundred two of this act, as to
16 advertising for bids or purchasing or contracting for services
17 and personal properties piece-meal, for the purpose of obtaining
18 prices under [four thousand dollars (\$4,000)] ten thousand
19 dollars (\$10,000) upon transactions which should in the exercise
20 of reasonable discretion and prudence be conducted as one
21 transaction amounting to more than [four thousand dollars
22 (\$4,000)] ten thousand dollars (\$10,000). This provision is
23 intended to make unlawful the practice of evading advertising
24 requirements by making a series of purchases or contracts each
25 for less than the advertising requirement price, or by making
26 several simultaneous purchases or contracts each below said
27 price, when in either case the transaction involved should have
28 been made as one transaction for one price. Any county
29 commissioners who so vote in violation of this provision and who
30 know that the transaction upon which they so vote is or ought to

1 be a part of a larger transaction and that it is being divided
2 in order to evade the requirements as to advertising for bids
3 shall be, jointly and severally, subject to surcharge for any
4 loss sustained. Wherever it shall appear that a commissioner may
5 have voted in violation of this section, but the purchase or
6 contract on which he so voted was not approved by the board of
7 county commissioners, this section shall be inapplicable.

8 Section 2. Sections 2317 and 2670 of the act, amended
9 December 22, 1981 (P.L.580, No.167), are amended to read:

10 Section 2317. Separate Bids for Plumbing, Heating,
11 Ventilating, Electrical Work, Elevators and Moving Stairs.--In
12 the preparation of specifications for the erection, construction
13 and alteration of any public building, when the entire cost of
14 such work shall exceed [four thousand dollars (\$4000)] ten
15 thousand dollars (\$10,000) the architect, engineer or other
16 person preparing such specifications shall prepare only the
17 following separate specifications: (1) plumbing, (2) heating,
18 (3) ventilating, (4) electrical work, (5) elevators and moving
19 stairs, and (6) one complete set of specifications for all the
20 other work to be done in such erection, construction and
21 alteration. The board of commissioners shall receive separate
22 bids upon each of the said branches of work and award the
23 contract for the same to the lowest responsible bidder for each
24 of said branches, including the balance of the work in addition
25 to the plumbing, heating, ventilating and electrical work, and
26 elevators and moving stairs. Where it is desired to install an
27 air conditioning unit, the heating and ventilating so involved
28 may be regarded as one branch of work having only one set of
29 specifications, and bids may be received and a contract awarded
30 thereon, as hereinbefore provided.

1 Section 2670. Building or Repair of Bridges.--In addition to
2 the provisions of Articles XVIII and XXIII of this act relating
3 to contracting for services and personal property, whenever the
4 county commissioners propose to build or repair a bridge at a
5 cost in excess of [four thousand dollars (\$4000)] ten thousand
6 dollars (\$10,000) their advertisements for bids shall contain
7 the description of the repairs, or designs of the kind of
8 bridge, required. When the contract is for the building of a
9 bridge, the designs and specifications therefor, or a copy
10 thereof, shall be kept in the office of the county
11 commissioners, open to the inspection of all intending bidders
12 during such advertising and the time specified therein for the
13 reception of bids. In the case of a bridge to be erected over a
14 stream upon the line between two adjoining counties, the
15 advertising shall be done in each of said counties, and a copy
16 of the plans and specifications shall be kept in the
17 commissioners' office of each county. The time of filing bids
18 and the person's name with whom filed must be marked on the
19 outside of said bids.

20 Section 3. This act shall take effect in 60 days.