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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 743**      Session of  
1989

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INTRODUCED BY STOUT, CORMAN, STEWART, BRIGHTBILL, PUNT, LEMMOND,  
PORTERFIELD, WENGER, MADIGAN, AFFLERBACH, REIBMAN AND  
PETERSON, MARCH 23, 1989

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REFERRED TO LOCAL GOVERNMENT, MARCH 23, 1989

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AN ACT

1 Amending the act of February 1, 1966 (1965 P.L.1656, No.581),  
2 entitled "An act concerning boroughs, and revising, amending  
3 and consolidating the law relating to boroughs," further  
4 providing for the awarding of contracts.

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

7 Section 1. Subsection (a) and the first paragraph and clause  
8 (2) of subsection (d) of section 1402, and sections 1403 and  
9 1405, of the act of February 1, 1966 (1965 P.L.1656, No.581),  
10 known as The Borough Code, amended December 22, 1981 (P.L.537,  
11 No.155), are amended to read:

12 Section 1402. Regulation of Contracts.--(a) All contracts  
13 or purchases in excess of [four thousand dollars (\$4,000)] ten  
14 thousand dollars (\$10,000), except those hereinafter mentioned,  
15 shall not be made except with and from the lowest responsible  
16 bidder after due notice in one newspaper of general circulation  
17 in the borough, at least three times at intervals of not less  
18 than three days where daily newspapers of general circulation

1 are available for such publication, in case of weekly  
2 newspapers, such notice once a week for two successive weeks.  
3 The first advertisement shall be published not less than ten  
4 days prior to the date fixed for the opening of bids. The amount  
5 of the contract shall in all cases, whether of straight sale  
6 price, conditional sale, bailment lease, or otherwise, be the  
7 entire amount which the borough pays to the successful bidder or  
8 his assigns in order to obtain the services or property, or  
9 both, and shall not be construed to mean only the amount which  
10 is paid to acquire title or to receive any other particular  
11 benefit or benefits of the whole bargain. In awarding bids,  
12 council shall have the right to take into consideration such  
13 other factors as the availability, cost and quality of service.

14 \* \* \*

15 (d) The contracts or purchases made by council, involving an  
16 expenditure of over [four thousand dollars (\$4,000)] ten  
17 thousand dollars (\$10,000), which shall not require advertising  
18 or bidding as hereinbefore provided, are as follows:

19 \* \* \*

20 (2) Those made for improvements, repairs and maintenance of  
21 any kind, made or provided by any borough, through its own  
22 employes: Provided, That all materials used for street  
23 improvement, maintenance and/or construction in excess of [four  
24 thousand dollars (\$4,000)] ten thousand dollars (\$10,000) be  
25 subject to the advertising requirements contained herein;

26 \* \* \*

27 Section 1403. Evasion of Advertising Requirements.--No  
28 member or members of council shall evade the provisions of  
29 section 1402 hereof as to advertising for bids, by purchasing or  
30 contracting for services and personal properties piecemeal for

1 the purpose of obtaining prices under [four thousand dollars  
2 (\$4,000)] ten thousand dollars (\$10,000) upon transactions,  
3 which transactions should, in the exercise of reasonable  
4 discretion and prudence, be conducted as one transaction  
5 amounting to more than [four thousand dollars (\$4,000)] ten  
6 thousand dollars (\$10,000) This provision is intended to make  
7 unlawful the evading of advertising requirements by making a  
8 series of purchases or contracts, each for less than the  
9 advertising requirement price, or by making several simultaneous  
10 purchases or contracts, each below said price, when, in either  
11 case, the transactions involved should have been made as one  
12 transaction for one price. Any members of council who so vote in  
13 violation of this provision and who know that the transaction  
14 upon which they so vote is or ought to be a part of a larger  
15 transaction and that it is being divided in order to evade the  
16 requirements as to advertising for bids, shall be jointly and  
17 severally subject to surcharge for ten percent of the full  
18 amount of the contract or purchase. Whenever it shall appear  
19 that a member of council may have voted in violation of this  
20 section but the purchase or contract on which he so voted was  
21 not approved by council, this section shall be inapplicable.

22 Section 1405. Separate Bids for Plumbing, Heating,  
23 Ventilating and Electrical Work.--In the preparation for the  
24 erection, construction and alteration of any public building,  
25 when the entire cost of such work shall exceed [four thousand  
26 dollars (\$4,000)] ten thousand dollars (\$10,000), the architect,  
27 engineer, or other person preparing such specifications may, if  
28 so requested by the borough council, prepare separate  
29 specifications for the plumbing, heating, ventilating and  
30 electrical work. The person or persons authorized to enter into

1 contracts for the erection, construction or alteration of such  
2 public buildings may, if such separate specifications shall have  
3 been proposed, receive separate bids upon each of the said  
4 branches of work and shall thereupon award the contract for the  
5 same to the lowest responsible bidder for each of said branches.

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