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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 757 Session of  
1991

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INTRODUCED BY STETLER, ANGSTADT, BILLOW, BUNT, CAPPABIANCA,  
COLAIZZO, COY, DEMPSEY, KOSINSKI, LINTON, McNALLY, MERRY,  
PESCI, PISTELLA, SERAFINI, STURLA, TRELLO, VAN HORNE AND  
WAMBACH, MARCH 13, 1991

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AS AMENDED ON SECOND CONSIDERATION, IN SENATE, MARCH 17, 1992

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AN ACT

1 Amending the act of June 23, 1931 (P.L.932, No.317), entitled  
2 "An act relating to cities of the third class; and amending,  
3 revising, and consolidating the law relating thereto,"  
4 granting city council the authority to determine whether or  
5 not security should accompany bids submitted in response to  
6 advertisement; AND FURTHER PROVIDING FOR REGULATIONS <—  
7 CONCERNING CONTRACTS AND FOR BONDS FOR PROTECTION OF LABOR  
8 AND MATERIALMEN.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Section 1901(f) AND (G) of the act of June 23, <—  
12 1931 (P.L.932, No.317), known as The Third Class City Code,  
13 reenacted and amended June 28, 1951 (P.L.662, No.164) and  
14 amended September 17, 1959 (P.L.906, No.359), ~~is~~ ARE amended to <—  
15 read:

16 Section 1901. Power to Make Contracts; Regulations  
17 Concerning Contracts.--\* \* \*

18 (f) [All bids advertised for shall be accompanied by cash,  
19 by a certified or cashier's good faith check in an amount

1 required by council but at least ten per centum of the bid, or  
2 by a bond with corporate surety in such amount as council shall  
3 determine but not less than ten per centum of the amount bid.]  
4 Council may require that any bids so advertised be accompanied  
5 by cash, by a certified or cashier's good faith check or other  
6 irrevocable letter of credit in a reasonable amount, or by a  
7 bond with corporate surety in a reasonable amount. Whenever it  
8 is required that a bid be accompanied by cash, certified check,  
9 cashier's good faith check or other irrevocable letter of  
10 credit, no bid shall be considered unless so accompanied. In the  
11 event any bidder shall, upon award of the contract to him, fail  
12 to comply with the requirements hereinafter stated as to a bond  
13 guaranteeing the performance of the contract the good faith  
14 deposit by cash, certified check, or bond, shall be forfeited to  
15 the city as liquidated damages.

16 \* \* \*

17 (G) WHERE ADVERTISING IS REQUIRED HEREIN, THE SUCCESSFUL  
18 BIDDER SHALL BE REQUIRED TO FURNISH A BOND OR IRREVOCABLE LETTER  
19 OF CREDIT IN AN AMOUNT SUFFICIENT TO COUNCIL WITH SUITABLE  
20 REASONABLE REQUIREMENTS GUARANTEEING THE PERFORMANCE OF THE  
21 CONTRACT[, WITH SURETY SUFFICIENT TO COUNCIL,] WITHIN TWENTY  
22 DAYS AFTER THE CONTRACT HAS BEEN AWARDED, UNLESS COUNCIL  
23 PRESCRIBES A SHORTER PERIOD OF NOT LESS THAN TEN DAYS, AND  
24 FAILURE TO FURNISH SUCH [BOND] SECURITY WITHIN SUCH TIME SHALL  
25 [AVOID] VOID THE AWARD. THE PROVISIONS OF THIS SUBSECTION  
26 REQUIRING SUCCESSFUL BIDDERS TO FURNISH [BOND] SECURITY SHALL  
27 NOT BE MANDATORY AS TO CONTRACTS FOR THE PURCHASE OF MOTOR  
28 VEHICLES OR OTHER PIECES OF EQUIPMENT BUT ONLY AS TO THOSE  
29 CONTRACTS WHICH INVOLVE FURNISHING OF LABOR AND MATERIALS.  
30 COUNCIL MAY IN ALL CASES OF CONTRACTS OR PURCHASES REQUIRE

1 [BONDS] SECURITY FOR PERFORMANCE, DELIVERY, OR OTHER TERMS.

2 \* \* \*

3 SECTION 2. SECTION 1907 OF THE ACT, AMENDED OCTOBER 9, 1967  
4 (P.L.378, NO.170), IS AMENDED TO READ:

5 SECTION 1907. [BONDS] SECURITY FOR THE PROTECTION OF LABOR  
6 AND MATERIALMEN.--IT SHALL BE THE DUTY OF EVERY CITY TO REQUIRE  
7 ANY PERSON, COPARTNERSHIP, ASSOCIATION, OR CORPORATION, ENTERING  
8 INTO A CONTRACT WITH SUCH CITY FOR THE CONSTRUCTION, ERECTION,  
9 INSTALLATION, COMPLETION, ALTERATION, REPAIR OF, OR ADDITION TO,  
10 ANY PUBLIC WORK OR IMPROVEMENT OF ANY KIND WHATSOEVER, WHERE THE  
11 AMOUNT OF SUCH CONTRACT IS IN EXCESS OF ONE THOUSAND FIVE  
12 HUNDRED DOLLARS, BEFORE COMMENCING WORK UNDER SUCH CONTRACT, TO  
13 EXECUTE AND DELIVER TO SUCH CITY, IN ADDITION TO ANY OTHER  
14 [BOND] SECURITY WHICH MAY NOW OR HEREAFTER BE REQUIRED BY LAW TO  
15 BE GIVEN IN CONNECTION WITH SUCH CONTRACT, AN ADDITIONAL BOND OR  
16 IRREVOCABLE LETTER OF CREDIT FOR THE USE OF ANY AND EVERY  
17 PERSON, COPARTNERSHIP, ASSOCIATION, OR CORPORATION INTERESTED,  
18 IN A SUM NOT LESS THAN FIFTY PER CENTUM AND NOT MORE THAN ONE  
19 HUNDRED PER CENTUM OF THE CONTRACT PRICE, AS SUCH CITY MAY  
20 PRESCRIBE, [HAVING AS SURETY THEREON ONE OR MORE SURETY  
21 COMPANIES LEGALLY AUTHORIZED TO DO BUSINESS IN THIS  
22 COMMONWEALTH,] CONDITIONED FOR THE PROMPT PAYMENT OF ALL  
23 MATERIAL FURNISHED AND LABOR SUPPLIED OR PERFORMED IN THE  
24 PROSECUTION OF THE WORK, WHETHER OR NOT THE SAID MATERIAL OR  
25 LABOR ENTER INTO AND BECOME COMPONENT PARTS OF THE WORK OR  
26 IMPROVEMENT CONTEMPLATED. SUCH ADDITIONAL [BOND] SECURITY SHALL  
27 BE DEPOSITED WITH AND HELD BY THE CITY FOR THE USE OF ANY PARTY  
28 INTERESTED THEREIN. EVERY SUCH ADDITIONAL [BOND] SECURITY SHALL  
29 PROVIDE THAT EVERY PERSON, COPARTNERSHIP, ASSOCIATION, OR  
30 CORPORATION WHO, WHETHER AS SUBCONTRACTOR OR OTHERWISE, HAS

1 FURNISHED MATERIAL OR SUPPLIED OR PERFORMED LABOR IN THE  
2 PROSECUTION OF THE WORK AS ABOVE PROVIDED, AND WHO HAS NOT BEEN  
3 PAID THEREFOR, MAY SUE IN ASSUMPSIT ON SAID ADDITIONAL [BOND]  
4 SECURITY, IN THE NAME OF THE CITY, FOR HIS, THEIR, OR ITS USE  
5 AND PROSECUTE THE SAME TO FINAL JUDGMENT FOR SUCH SUM OR SUMS AS  
6 MAY BE JUSTLY DUE HIM, THEM, OR IT, AND HAVE EXECUTION THEREOF:  
7 PROVIDED, HOWEVER, THAT THE CITY SHALL NOT BE LIABLE FOR THE  
8 PAYMENT OF ANY COSTS OR EXPENSE OF ANY SUIT. THE SURETY OR  
9 SURETIES ON A BOND UNDER THIS SECTION MUST BE AUTHORIZED TO DO  
10 BUSINESS IN THIS COMMONWEALTH.

11 Section 2 3. This act shall take effect in 60 days.

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