

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1071 Session of
2007

INTRODUCED BY EICHELBERGER, REGOLA, FERLO, ARMSTRONG, BAKER,
BROWNE, BRUBAKER, CORMAN, COSTA, ERICKSON, FOLMER, FONTANA,
GORDNER, GREENLEAF, KASUNIC, LAVALLE, ORIE, PILEGGI, PIPPY,
PUNT, ROBBINS, SCARNATI, STOUT, TOMLINSON, VANCE, WAUGH AND
WONDERLING, SEPTEMBER 21, 2007

REFERRED TO LOCAL GOVERNMENT, SEPTEMBER 21, 2007

AN ACT

1 Amending the act of August 9, 1955 (P.L.323, No.130), entitled,
2 as amended, "An act relating to counties of the first, third,
3 fourth, fifth, sixth, seventh and eighth classes; amending,
4 revising, consolidating and changing the laws relating
5 thereto; relating to imposition of excise taxes by counties,
6 including authorizing imposition of an excise tax on the
7 rental of motor vehicles by counties of the first class; and
8 providing for regional renaissance initiatives," further
9 providing for commissioners sole contractors for county, for
10 contract procedures, terms and bonds and advertising for bids
11 and for evasion of advertising requirements.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Sections 1801 and 1802(a) and (b) of the act of
15 August 9, 1955 (P.L.323, No.130), known as The County Code,
16 amended December 22, 2000 (P.L.1019, No.142), are amended to
17 read:

18 Section 1801. Commissioners Sole Contractors for County.--

19 (a) The county commissioners shall contract for and purchase
20 all services referred to in section five hundred eight and
21 personal property for county officers and agencies. All

1 contracts and purchases not in excess of [ten thousand dollars
2 (\$10,000)] twenty-five thousand dollars (\$25,000), subject to
3 annual adjustment under subsection (b.1), shall be by note or
4 memorandum, in writing, signed by the county commissioners, or
5 their designee. A copy of all such notes and memorandums and all
6 written contracts shall be filed in the office of the
7 controller, if any, and, if not, then with the chief clerk of
8 the commissioners.

9 (b) Written or telephonic price quotations from at least
10 three qualified and responsible contractors shall be requested
11 for all contracts that exceed [four thousand dollars (\$4,000)]
12 seven thousand dollars (\$7,000), subject to annual adjustment
13 under subsection (b.1), but are less than the amount requiring
14 advertisement and competitive bidding or, in lieu of price
15 quotations, a memorandum shall be kept on file showing that
16 fewer than three qualified contractors exist in the market area
17 within which it is practicable to obtain quotations. A written
18 record of telephonic price quotations shall be made and shall
19 contain at least the date of the quotation, the name of the
20 contractor and the contractor's representative, the
21 construction, reconstruction, repair, maintenance or work which
22 was the subject of the quotation and the price. Written price
23 quotations, written records of telephonic price quotations and
24 memoranda shall be retained for a period of three years.

25 (b.1) (1) Annually, beginning with the year in which this
26 subsection becomes applicable to contracts and purchases, the
27 Department of Labor and Industry shall calculate the percentage
28 change in the Consumer Price Index for All Urban Consumers (CPI-
29 U) for the United States city average for all items as published
30 by the United States Department of Labor, Bureau of Labor

1 Statistics, for the twelve-month average ending in September of
2 the prior year.

3 (2) The amount at which competitive bidding is required
4 under subsection (a) and the amount at which written or
5 telephonic price quotations are required under subsection (b)
6 shall be adjusted annually as follows:

7 (i) In the case of competitive bidding, the positive
8 percentage change, as determined in accordance with paragraph
9 (1), shall be multiplied by the amount applicable under
10 subsection (a) for the current year and the product thereof
11 shall be added to the amount applicable under subsection (a) for
12 the current year, with the result rounded to the nearest
13 multiple of ten dollars (\$10).

14 (ii) In the case of written or telephonic price quotations,
15 the positive percentage change, as determined in accordance with
16 paragraph (1), shall be multiplied by the amount applicable
17 under subsection (b) for the current year and the product
18 thereof shall be added to the amount applicable under subsection
19 (b) for the current year, with the result rounded to the nearest
20 multiple of ten dollars (\$10).

21 (3) The annual determination required under paragraph (1)
22 and the calculation of the adjustments required under paragraph
23 (2) shall be made in the period between October 1 and November
24 15 of the year following the effective date of this subsection,
25 and annually between October 1 and November 15 of each
26 successive year.

27 (4) The adjusted amounts obtained in accordance with
28 paragraph (2) shall become effective January 1 for the calendar
29 year following the year in which the determination required
30 under paragraph (1) is made.

1 (5) The Department of Labor and Industry shall give notice
2 in the Pennsylvania Bulletin prior to January 1 of each calendar
3 year of the annual percentage change determined in accordance
4 with paragraph (1) and the amounts, whether adjusted or
5 unadjusted in accordance with paragraph (2), at which
6 competitive bidding is required under subsection (a) and written
7 or telephonic price quotations are required under subsection (b)
8 for the calendar year beginning the first day of January after
9 publication of the notice.

10 (c) The commissioners shall, where possible, anticipate the
11 needs of the various officers, agencies and operations of the
12 county and endeavor to purchase in wholesale quantities, where
13 practicable and where savings could be achieved thereby. The
14 commissioners may make contracts and purchases for all purposes
15 expressly or impliedly authorized by law.

16 Section 1802. Contract Procedures; Terms and Bonds;
17 Advertising for Bids.--(a) All contracts for services and
18 personal property where the amount thereof exceeds the sum of
19 [ten thousand dollars (\$10,000)] twenty-five thousand dollars
20 (\$25,000), subject to annual adjustment under section 1801(b.1),
21 shall be written and shall, except as otherwise hereinafter
22 specified, be made by advertising for bids.

23 (b) Contracts or purchases in excess of [ten thousand
24 dollars (\$10,000)] twenty-five thousand dollars (\$25,000),
25 subject to annual adjustment under section 1801(b.1), except
26 those hereinafter mentioned and except as provided by the act of
27 October 27, 1979 (P.L.241, No.78), entitled "An act authorizing
28 political subdivisions, municipality authorities and
29 transportation authorities to enter into contracts for the
30 purchase of goods and the sale of real and personal property

1 where no bids are received," shall not be made except with and
2 from the lowest responsible and responsive bidder submitting a
3 bid in conformity with the specifications approved by the board
4 of commissioners for the contract or purchase, after due notice
5 in one newspaper of general circulation, published or
6 circulating in the county, at least two times at intervals of
7 not less than three days where daily newspapers of general
8 circulation are employed for such publication, or in case weekly
9 newspapers are employed then the notice shall be published once
10 a week for two successive weeks. The first advertisement shall
11 be published not less than ten days prior to the date fixed for
12 the opening of bids. The requirements of this subsection need
13 not be followed in cases of emergency, but in such cases the
14 actual emergency shall be declared and stated by resolution of
15 the commissioners.

16 * * *

17 Section 2. Section 1803 of the act, amended July 10, 1990
18 (P.L.379, No.89), is amended to read:

19 Section 1803. Evasion of Advertising Requirements.--(a) No
20 commissioner or commissioners shall evade the provisions of
21 section one thousand eight hundred two of this act, as to
22 advertising for bids or purchasing or contracting for services
23 and personal properties piece-meal, for the purpose of obtaining
24 prices under [ten thousand dollars (\$10,000)] twenty-five
25 thousand dollars (\$25,000), subject to annual adjustment under
26 section 1801(b.1), upon transactions which should in the
27 exercise of reasonable discretion and prudence be conducted as
28 one transaction amounting to more than [ten thousand dollars
29 (\$10,000)] twenty-five thousand dollars (\$25,000), subject to
30 annual adjustment under section 1801(b.1). This provision is

1 intended to make unlawful the practice of evading advertising
2 requirements by making a series of purchases or contracts each
3 for less than the advertising requirement price, or by making
4 several simultaneous purchases or contracts each below said
5 price, when in either case the transaction involved should have
6 been made as one transaction for one price. Any county
7 commissioners who so vote in violation of this provision and who
8 know that the transaction upon which they so vote is or ought to
9 be a part of a larger transaction and that it is being divided
10 in order to evade the requirements as to advertising for bids
11 shall be, jointly and severally, subject to surcharge for any
12 loss sustained. Wherever it shall appear that a commissioner may
13 have voted in violation of this section, but the purchase or
14 contract on which he so voted was not approved by the board of
15 county commissioners, this section shall be inapplicable.

16 (b) Any county commissioner who votes to unlawfully evade
17 the provisions of section one thousand eight hundred two of this
18 act and who knows that the transaction upon which he so votes is
19 or ought to be a part of a larger transaction and that it is
20 being divided in order to evade the requirements as to
21 advertising for bids commits a misdemeanor of the third degree
22 for each contract entered into as a direct result of that vote.
23 This penalty shall be in addition to any surcharge which may be
24 assessed pursuant to subsection (a).

25 Section 3. This act shall apply to contracts and purchases
26 advertised on or after January 1 of the year following the
27 effective date of this section.

28 Section 4. This act shall take effect immediately.