

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1073 Session of
2007

INTRODUCED BY REGOLA, FERLO, ARMSTRONG, BAKER, BROWNE, BRUBAKER,
CORMAN, COSTA, EICHELBERGER, 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 June 24, 1931 (P.L.1206, No.331), entitled
2 "An act concerning townships of the first class; amending,
3 revising, consolidating, and changing the law relating
4 thereto," further providing for contracts and acquisition of
5 property and for general regulations concerning contracts.

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

8 Section 1. Section 1802(a) and (a.1) of the act of June 24,
9 1931 (P.L.1206, No.331), known as The First Class Township Code,
10 reenacted and amended May 27, 1949 (P.L.1955, No.569) and
11 amended or added July 10, 1990 (P.L.389, No.92) and December 20,
12 1996 (P.L.1495, No.192), are amended and the section is amended
13 by adding a subsection to read:

14 Section 1802. General Regulations Concerning Contracts.--(a)
15 All contracts or purchases made by any township, involving the
16 expenditure of over [ten thousand dollars] twenty-five thousand
17 dollars subject to annual adjustment under subsection (a.2),
18 except those hereinafter mentioned, shall not be made except

1 with and from the lowest responsible bidder, shall be in
2 writing, and shall be made only after notice by the secretary,
3 published, in one newspaper of general circulation, published or
4 circulating in the county in which the township is situated, at
5 least two times at intervals of not less than three days where
6 daily newspapers of general circulation are employed for such
7 publication, or in case weekly newspapers are employed then the
8 notice shall be published once a week for two successive weeks.
9 The first advertisement shall be published not more than forty-
10 five days and the second advertisement not less than ten days
11 prior to the date fixed for the opening of bids. Advertisements
12 for contracts or purchases shall also be posted in a conspicuous
13 place within the township. Advertisements for contracts or
14 purchases shall contain the date, time and location for opening
15 of bids and shall state the amount of the performance bond
16 determined under subsection (c). All plans and specifications
17 shall be on file at least ten days in advance of opening bids.
18 The amount of the contract shall in all cases, whether of
19 straight sale price, conditional sale, bailment lease, or
20 otherwise, be the entire amount which the township pays to the
21 successful bidder or his assigns in order to obtain the services
22 or property, or both, and shall not be construed to mean only
23 the amount which is paid to acquire title or to receive any
24 other particular benefit or benefits of the whole bargain.

25 (a.1) Written or telephonic price quotations from at least
26 three qualified and responsible contractors shall be requested
27 for all contracts that exceed [four thousand dollars] seven
28 thousand dollars subject to annual adjustment under subsection
29 (a.2) but are less than the amount requiring advertisement and
30 competitive bidding or, in lieu of price quotations, a

1 memorandum shall be kept on file showing that fewer than three
2 qualified contractors exist in the market area within which it
3 is practicable to obtain quotations. A written record of
4 telephonic price quotations shall be made and shall contain at
5 least the date of the quotation, the name of the contractor and
6 the contractor's representative, the construction,
7 reconstruction, repair, maintenance or work which was the
8 subject of the quotation and the price. Written price
9 quotations, written records of telephonic price quotations and
10 memoranda shall be retained for a period of three years.

11 (a.2) (1) Annually, beginning with the year in which this
12 subsection becomes applicable to contracts and purchases, the
13 Department of Labor and Industry shall calculate the percentage
14 change in the Consumer Price Index for All Urban Consumers (CPI-
15 U) for the United States city average for all items as published
16 by the United States Department of Labor, Bureau of Labor
17 Statistics, for the twelve-month average ending in September of
18 the prior year.

19 (2) The amount at which competitive bidding is required
20 under subsection (a) and the amount at which written or
21 telephonic price quotations are required under subsection (a.1)
22 shall be adjusted annually as follows:

23 (i) In the case of competitive bidding, the positive
24 percentage change, as determined in accordance with clause (1),
25 shall be multiplied by the amount applicable under subsection
26 (a) for the current year and the product thereof shall be added
27 to the amount applicable under subsection (a) for the current
28 year, with the result rounded to the nearest multiple of ten
29 dollars.

30 (ii) In the case of written or telephonic price quotations,

1 the positive percentage change, as determined in accordance with
2 clause (1), shall be multiplied by the amount applicable under
3 subsection (a.1) for the current year and the product thereof
4 shall be added to the amount applicable under subsection (a.1)
5 for the current year, with the result rounded to the nearest
6 multiple of ten dollars.

7 (3) The annual determination required under clause (1) and
8 the calculation of the adjustments required under clause (2)
9 shall be made in the period between October 1 and November 15 of
10 the year following the effective date of this subsection, and
11 annually between October 1 and November 15 of each successive
12 year.

13 (4) The adjusted amounts obtained in accordance with clause
14 (2) shall become effective January 1 for the calendar year
15 following the year in which the determination required under
16 clause (1) is made.

17 (5) The Department of Labor and Industry shall give notice
18 in the Pennsylvania Bulletin prior to January 1 of each calendar
19 year of the annual percentage change determined in accordance
20 with clause (1) and the amounts, whether adjusted or unadjusted
21 in accordance with clause (2), at which competitive bidding is
22 required under subsection (a) and written or telephonic price
23 quotations are required under subsection (a.1) for the calendar
24 year beginning the first day of January after publication of the
25 notice.

26 * * *

27 Section 2. Section 1802.1 of the act, amended July 10, 1990
28 (P.L.389, No.92), is amended to read:

29 Section 1802.1. Evasion of Advertising Requirements.--(a)
30 No commissioner or commissioners shall evade the provisions of

1 section one thousand eight hundred two as to advertising for
2 bids, by purchasing or contracting for services and personal
3 properties piecemeal for the purpose of obtaining prices under
4 [ten thousand dollars] twenty-five thousand dollars subject to
5 annual adjustment under section 1802(a.2) upon transactions,
6 which transactions should, in the exercise of reasonable
7 discretion and prudence, be conducted as one transaction
8 amounting to more than [ten thousand dollars] twenty-five
9 thousand dollars subject to annual adjustment under section
10 1802(a.2). This provision is intended to make unlawful the
11 evading of advertising requirements by making a series of
12 purchases or contracts each for less than the advertising
13 requirement price, or by making several simultaneous purchases
14 or contracts, each below said price, when in either case, the
15 transactions involved should have been made as one transaction
16 for one price. Any commissioners who so vote in violation of
17 this provision, and who know that the transaction upon which
18 they so vote is or ought to be a part of a larger transaction,
19 and that it is being divided in order to evade the requirements
20 as to advertising for bids, shall be jointly and severally
21 subject to surcharge for ten per centum of the full amount of
22 the contract or purchase. Whenever it shall appear that a
23 commissioner may have voted in violation of this section, but
24 the purchase or contract on which he so voted was not approved
25 by the board of commissioners, this section shall be
26 inapplicable.

27 (b) Any commissioner who votes to unlawfully evade the
28 provisions of section one thousand eight hundred two and who
29 knows that the transaction upon which he so votes is or ought to
30 be a part of a larger transaction and that it is being divided

1 in order to evade the requirements as to advertising for bids
2 commits a misdemeanor of the third degree for each contract
3 entered into as a direct result of that vote. This penalty shall
4 be in addition to any surcharge which may be assessed pursuant
5 to subsection (a).

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

9 Section 4. This act shall take effect immediately.