

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 280 Session of 2011

INTRODUCED BY M.K. KELLER, AUMENT, BAKER, BEAR, BENNINGHOFF, BLOOM, BOBACK, BOYD, BROOKS, CAUSER, CHRISTIANA, CLYMER, COX, CREIGHTON, CUTLER, DELOZIER, DENLINGER, ELLIS, EVERETT, FARRY, FLECK, GABLER, GEIST, GERBER, GILLESPIE, GINGRICH, GRELL, GROVE, HALUSKA, HARHART, HARPER, HARRIS, HELM, HENNESSEY, HESS, HICKERNELL, KAUFFMAN, KILLION, KNOWLES, MAJOR, MARSHALL, MARSICO, MASSER, METCALFE, MILLARD, MILLER, MOUL, OBERLANDER, O'NEILL, PAYNE, PEIFER, PERRY, PICKETT, PYLE, QUIGLEY, QUINN, RAPP, REED, REICHLEY, ROAE, ROCK, ROSS, SAYLOR, SCAVELLO, CULVER, SCHRODER, SIMMONS, SONNEY, STERN, STEVENSON, SWANGER, TALLMAN, TOBASH, TRUITT, TURZAI, VEREB, VULAKOVICH AND WATSON, JANUARY 27, 2011

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 27, 2011

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," in  
4 contracts, further regulating contracts as to purchasing and  
5 advertising requirements.

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

8 Section 1. Section 1901(a), (b) and (d) of the act of June  
9 23, 1931 (P.L.932, No.317), known as The Third Class City Code,  
10 reenacted and amended June 28, 1951 (P.L.662, No.164) and  
11 amended March 25, 1988 (P.L.289, No.32) and July 11, 1996  
12 (P.L.647, No.109), are amended to read:

13 Section 1901. Power to Make Contracts; Regulations  
14 Concerning Contracts.--(a) Each city may make contracts for

1 carrying into execution the provisions of this act and the laws  
2 of the Commonwealth. The council shall, by ordinance, provide  
3 for and regulate the award of all contracts. All contracts or  
4 purchases not in excess of [ten] twenty-five thousand dollars,  
5 subject to annual adjustment under section 1903.1, shall be by  
6 note or memorandum in writing, signed by the officer or employe  
7 making the purchase or contract.

8 (b) All services and personal properties required by any  
9 city, or any department thereof, where the amount exceeds the  
10 sum of [ten] twenty-five thousand dollars, subject to annual  
11 adjustment under section 1903.1, shall be furnished and  
12 performed under written contract, and the contract shall be  
13 awarded and given to the lowest responsible bidder, after  
14 advertising two times, each publication on a different day, in  
15 not more than two newspapers, in accord with the provisions of  
16 section one hundred and nine of this act, and the bids shall not  
17 be opened until at least ten days have elapsed after the first  
18 advertisement. A notice of the advertisement for contracts or  
19 purchases shall also be posted at the city hall.

20 \* \* \*

21 (d) The contracts or purchases made by council involving an  
22 expenditure of over [ten] twenty-five thousand dollars, subject  
23 to annual adjustment under section 1903.1, which shall not  
24 require advertising or bidding, as hereinbefore provided are as  
25 follows:

26 (1) Those for maintenance, repairs or replacements for  
27 water, electric light or other public works of the city,  
28 provided they do not constitute new additions, extensions or  
29 enlargements of existing facilities and equipment, but a bond  
30 may be required by council as in other cases of work done.

1       (2) Those made for improvements, repairs and maintenance of  
2 any kind made or provided by any city through its own employees:  
3 Provided, however, That this shall not apply to construction  
4 materials used in a street improvement.

5       (3) Those where particular types, models or pieces of new  
6 equipment, articles, apparatus, appliances, vehicles, or parts  
7 thereof, are desired by council, which are patented and  
8 manufactured or copyrighted products.

9       (4) Those involving any policies of insurance or surety  
10 company bonds; those made for public utility service under  
11 tariffs on file with the Pennsylvania Public Utility Commission;  
12 those made with another political subdivision or a county, the  
13 Commonwealth of Pennsylvania, the Federal government, any agency  
14 of the Commonwealth or the Federal government, or any municipal  
15 authority, including the sale, leasing or loan of any supplies  
16 or materials by the Commonwealth or the Federal government, or  
17 their agencies, but the price thereof shall not be in excess of  
18 that fixed by the Commonwealth, the Federal government, or their  
19 agencies.

20       (5) Those involving personal or professional services.

21       (6) Those made during a state of emergency declared by the  
22 mayor or chief executive in accord with section one thousand two  
23 hundred and three of this act.

24       \* \* \*

25       Section 2. Section 1902 of the act, amended March 25, 1988  
26 (P.L.289, No.32), is amended to read:

27       Section 1902. Evasion of Advertising Requirements.--No  
28 member or members of council shall evade the provisions of the  
29 preceding section as to advertising for bids by purchasing or  
30 contracting for services and personal properties piecemeal for

1 the purpose of obtaining prices under [ten] twenty-five thousand  
2 dollars, subject to annual adjustment under section 1903.1, upon  
3 transactions which should, in the exercise of reasonable  
4 discretion and prudence, be conducted as one transaction  
5 amounting to more than [ten] twenty-five thousand dollars,  
6 subject to annual adjustment under section 1903.1. This  
7 provision is intended to make unlawful the practice of evading  
8 advertising requirements by making a series of purchases or  
9 contracts, each for less than the advertising requirement price,  
10 or by making several simultaneous purchases or contracts, each  
11 below said price, when, in either case, the transactions  
12 involved should have been made as one transaction for one price.  
13 Any members of council who so vote in violation of this  
14 provision and who know that the transaction upon which they so  
15 vote is or ought to be a part of a larger transaction and that  
16 it is being divided in order to evade the requirements as to  
17 advertising for bids, shall be jointly and severally subject to  
18 surcharge for ten per centum of the full amount of the contract  
19 or purchase. Wherever it shall appear that a member of council  
20 may have voted in violation of this section but the purchase or  
21 contract on which he so voted was not approved by council, this  
22 section shall be inapplicable.

23 Section 3. The act is amended by adding a section to read:

24 Section 1903.1. Adjustments Based on Consumer Price Index  
25 for All Urban Consumers.--(a) The Department of Labor and  
26 Industry shall determine the percentage change in the Consumer  
27 Price Index for All Urban Consumers for the twelve-month period  
28 ending September 30 of the calendar year in which this section  
29 becomes effective, and for each successive twelve-month period  
30 thereafter.

1     (b) The amounts at which competitive bidding and separate  
2 bids are required under this act shall be adjusted annually. The  
3 positive percentage change, as determined in accordance with  
4 subsection (a), shall be multiplied by the applicable amount for  
5 the current year and the product thereof shall be added to the  
6 applicable amount for the current year, with the result rounded  
7 to the nearest multiple of ten dollars.

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

14     (d) The adjusted amounts obtained in accordance with  
15 subsection (b) shall become effective January 1 for the calendar  
16 year following the year in which the determination required  
17 under subsection (a) is made.

18     (e) The Department of Labor and Industry shall give notice  
19 in the Pennsylvania Bulletin prior to January 1 of each calendar  
20 year of the annual percentage change determined in accordance  
21 with subsection (a) and the amounts, whether adjusted or  
22 unadjusted in accordance with subsection (b), at which  
23 competitive bidding, advertising and separate bids are required  
24 under this act for the calendar year beginning the first day of  
25 January after publication of the notice.

26     Section 4. Section 1909 of the act, amended March 25, 1988  
27 (P.L.289, No.32), is amended to read:

28     Section 1909. Separate Bids for Plumbing, Heating,  
29 Ventilating and Electrical Work, Elevators and Moving Stairs.--  
30 In the preparation of specifications for the erection,

1 construction, and alteration of any public building, when the  
2 entire cost of such work shall exceed [ten] twenty-five thousand  
3 dollars, subject to annual adjustment under section 1903.1, the  
4 architect, engineer, or other person preparing such  
5 specifications, shall prepare only the following separate  
6 specifications; (1) plumbing, (2) heating, (3) ventilating, (4)  
7 electrical work, (5) elevators and moving stairs, and (6) one  
8 complete set of specifications for all the other work to be done  
9 in such erection, construction and alteration. The person or  
10 persons authorized to enter into contracts for the erection,  
11 construction, or alteration of such public buildings shall  
12 receive separate bids upon each of the said branches of work,  
13 and award the contract for the same to the lowest responsible  
14 bidder for each of said branches, including the balance of the  
15 work in addition to the plumbing, heating, ventilating and  
16 electrical work and elevators and moving stairs. Where it is  
17 desired to install an air conditioning unit, the heating and  
18 ventilating so involved may be regarded as one branch of work  
19 having only one set of specifications, and bids may be received  
20 and a contract awarded thereon as hereinbefore provided.

21 Section 5. This act shall apply to contracts and purchases  
22 advertised on or after January 1 of the year following the  
23 effective date of this section.

24 Section 6. This act shall take effect immediately.