
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 285 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 EDUCATION, JANUARY 27, 2011

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," providing for adjustments based on
6 Consumer Price Index relating to contracts and purchases; and
7 further providing for work to be done under contract let on
8 bids and exception, for purchase of supplies, for contracts
9 for construction, repair, renovation or maintenance, for
10 project contracts and for powers and duties of institution
11 presidents.

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

14 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
15 as the Public School Code of 1949, is amended by adding a
16 section to read:

17 Section 118. Adjustments Based on Consumer Price Index.--(a)

1 (1) Annually, beginning with the year in which this subsection
2 becomes applicable to contracts and purchases, the Department of
3 Labor and Industry shall calculate the percentage change in the
4 Consumer Price Index for All Urban Consumers (CPI-U) for the
5 United States city average for all items as published by the
6 United States Department of Labor, Bureau of Labor Statistics,
7 for the twelve-month average ending in September of the prior
8 year.

9 (2) The amounts at which competitive bidding or written or
10 telephonic price quotations are required under this act shall be
11 adjusted annually as follows:

12 (i) In the case of competitive bidding, the positive
13 percentage change, as determined in accordance with clause (1),
14 shall be multiplied by the amount applicable under the provision
15 requiring competitive bidding for the current year and the
16 product thereof shall be added to the amount applicable under
17 the provision requiring competitive bidding for the current
18 year, with the result rounded to the nearest multiple of ten
19 dollars (\$10).

20 (ii) In the case of written or telephonic price quotations,
21 the positive percentage change, as determined in accordance with
22 clause (1), shall be multiplied by the amount applicable under
23 the provision requiring written or telephonic price quotations
24 for the current year and the product thereof shall be added to
25 the amount applicable under the provision requiring written or
26 telephonic price quotations for the current year, with the
27 result rounded to the nearest multiple of ten dollars (\$10).

28 (3) The annual determination required under clause (1) and
29 the calculation of the adjustments required under clause (2)
30 shall be made in the period between October 1 and November 15 of

1 the year following the effective date of this subsection, and
2 annually between October 1 and November 15 of each successive
3 year.

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

8 (5) The Department of Labor and Industry shall give notice
9 in the Pennsylvania Bulletin prior to January 1 of each calendar
10 year of the annual percentage change determined in accordance
11 with clause (1) and the amounts, whether adjusted or unadjusted
12 in accordance with clause (2), at which competitive bidding or
13 written or telephonic price quotations are required for the
14 calendar year beginning the first day of January after
15 publication of the notice.

16 Section 2. Sections 751(a), (a.1), (b) and (f) and 807.1 of
17 the act, amended or added May 4, 1990 (P.L.164, No.38), are
18 amended to read:

19 Section 751. Work to be Done Under Contract Let on Bids;
20 Exception.--(a) All construction, reconstruction, repairs,
21 maintenance or work of any nature, including the introduction of
22 plumbing, heating and ventilating, or lighting systems, upon any
23 school building or upon any school property, or upon any
24 building or portion of a building leased under the provisions of
25 section 703.1, made by any school district, where the entire
26 cost, value, or amount of such construction, reconstruction,
27 repairs, maintenance or work, including labor and material,
28 shall exceed [ten thousand dollars (\$10,000)] twenty-five
29 thousand dollars (\$25,000), subject to annual adjustment under
30 section 118, shall be done under separate contracts to be

1 entered into by such school district with the lowest responsible
2 bidder, upon proper terms, after due public notice has been
3 given asking for competitive bids. Whenever a board of school
4 directors shall approve the use of a prefabricated unit,
5 complete in itself, for a school building or other proper
6 structure to be erected upon school property, the board of
7 school directors may have prepared appropriate specifications
8 detailing the size and material desired in a particular
9 prefabricated unit, including all utilities such as plumbing,
10 heating and ventilating, and electrical work, and may advertise
11 for a single bid on all the work and award the contract therefor
12 to the lowest responsible bidder: Provided, That if due to an
13 emergency a school plant or any part thereof becomes unusable
14 competitive bids for repairs or replacement may be solicited
15 from at least three responsible bidders, and upon the approval
16 of any of these bids by the Secretary of Education, the board of
17 school directors may proceed at once to make the necessary
18 repairs or replacements in accordance with the terms of said
19 approved bid or bids.

20 (a.1) Written or telephonic price quotations from at least
21 three qualified and responsible contractors shall be requested
22 by the board of school directors for all contracts that exceed
23 [four thousand dollars (\$4,000)] seven thousand dollars
24 (\$7,000), subject to annual adjustment under section 118, but
25 are less than the amount requiring advertisement and competitive
26 bidding, or, in lieu of price quotations, a memorandum shall be
27 kept on file showing that fewer than three qualified contractors
28 exist in the market area within which it is practicable to
29 obtain quotations. A written record of telephonic price
30 quotations shall be made and shall contain at least the date of

1 the quotation, the name of the contractor and the contractor's
2 representative, the construction, reconstruction, repair,
3 maintenance or work which was the subject of the quotation and
4 the price. Written price quotations, written records of
5 telephonic price quotations and memoranda shall be retained for
6 a period of three years.

7 (b) The board of school directors in any school district may
8 perform any construction, reconstruction, repairs, or work of
9 any nature, where the entire cost or value, including labor and
10 material, is less than [five thousand dollars (\$5000)] seven
11 thousand dollars (\$7,000), subject to annual adjustment under
12 section 118, by its own maintenance personnel. The board of
13 school directors in any school district may authorize the
14 secretary of the board or other executive to award contracts for
15 construction, reconstruction, repairs, or work of any nature,
16 where the entire cost or value, including labor and material,
17 [is ten thousand dollars (\$10,000)] subject to annual adjustment
18 under section 118, is twenty-five thousand dollars (\$25,000) or
19 less, without soliciting competitive bids, subject, however, to
20 the provisions of subsection (a.1).

21 * * *

22 (f) No board of school directors shall evade the provisions
23 of this section as to advertising for bids or purchasing
24 materials or contracting for services piecemeal for the purpose
25 of obtaining prices under [ten thousand dollars (\$10,000)]
26 twenty-five thousand dollars (\$25,000), subject to annual
27 adjustment under section 118, upon transactions which should, in
28 the exercise of reasonable discretion and prudence, be conducted
29 as one transaction amounting to more than [ten thousand dollars
30 (\$10,000)] twenty-five thousand dollars (\$25,000), subject to

1 annual adjustment under section 118. This provision is intended
2 to make unlawful the practice of evading advertising
3 requirements by making a series of purchases or contracts each
4 for less than the advertising requirement price, or by making
5 several simultaneous purchases or contracts each below said
6 price, when in either case the transaction involved should have
7 been made as one transaction for one price.

8 Section 807.1. Purchase of Supplies.--(a) All furniture,
9 equipment, textbooks, school supplies and other appliances for
10 the use of the public schools, costing [ten thousand dollars
11 (\$10,000)], subject to annual adjustment under section 118,
12 twenty-five thousand dollars (\$25,000) or more shall be
13 purchased by the board of school directors only after due
14 advertisement as hereinafter provided. Supplies, subject to
15 annual adjustment under section 118, costing [ten thousand
16 dollars (\$10,000)] twenty-five thousand dollars (\$25,000) or
17 more shall be purchased by the board of school directors only
18 after public notice has been given by advertisement once a week
19 for three (3) weeks in not less than two (2) newspapers of
20 general circulation. In any district where no newspaper is
21 published, said notice may, in lieu of such publication, be
22 posted in at least five (5) public places.

23 (a.1) Written or telephonic price quotations from at least
24 three qualified and responsible vendors shall be requested by
25 the board of school directors for all purchases of supplies that
26 exceed [four thousand dollars (\$4,000)] seven thousand dollars
27 (\$7,000), subject to annual adjustment under section 118, but
28 are less than the amount requiring advertisement and competitive
29 bidding, or, in lieu of price quotations, a memorandum shall be
30 kept on file showing that fewer than three qualified vendors

1 exist in the market area within which it is practicable to
2 obtain quotations. A written record of telephonic price
3 quotations shall be made and shall contain at least the date of
4 the quotation, the name of the vendor and the vendor's
5 representative, the supplies which were the subject of the
6 quotation and the price of the supplies. Written price
7 quotations, written records of telephonic price quotations and
8 memoranda shall be retained for a period of three years.

9 (b) The board of school directors shall accept the bid of
10 the lowest responsible bidder, kind, quality, and material being
11 equal, but shall have the right to reject any and all bids, or
12 select a single item from any bid. The board of school directors
13 in any district may authorize or appoint the secretary of the
14 board or other executive as purchasing agent for the district,
15 with authority to purchase supplies costing less than [ten
16 thousand dollars (\$10,000)] twenty-five thousand dollars
17 (\$25,000), subject to annual adjustment under section 118.

18 (c) The following shall be exempt from the above provisions:
19 maps, music, globes, charts, educational films, filmstrips,
20 prepared transparencies and slides, pre-recorded magnetic tapes
21 and disc recordings, textbooks, games, toys, prepared kits,
22 flannel board materials, flash cards, models, projectuals and
23 teacher demonstration devices necessary for school use.

24 (d) No board of school directors shall evade the provisions
25 of this section as to advertising for bids or purchasing
26 materials piecemeal for the purpose of obtaining prices under
27 [ten thousand dollars (\$10,000)] twenty-five thousand dollars
28 (\$25,000), subject to annual adjustment under section 118, upon
29 transactions which should, in the exercise of reasonable
30 discretion and prudence, be conducted as one transaction

1 amounting to more than [ten thousand dollars (\$10,000)] twenty-
2 five thousand dollars (\$25,000), subject to annual adjustment
3 under section 118. This provision is intended to make unlawful
4 the practice of evading advertising requirements by making a
5 series of purchases or contracts each for less than the
6 advertising requirement price, or by making several simultaneous
7 purchases or contracts each below said price, when in either
8 case the transaction involved should have been made as one
9 transaction for one price.

10 Section 3. Section 1913-B.1(c) of the act, added December 9,
11 2002 (P.L.1472, No.187), is amended to read:

12 Section 1913-B.1. Contracts for Construction, Repair,
13 Renovation or Maintenance.--* * *

14 (c) All contracts, other than contracts for the retention of
15 architects and engineers, authorized by this section which
16 exceed [ten thousand dollars (\$10,000) or any larger amount as
17 otherwise provided for in 62 Pa.C.S. (relating to procurement)]
18 twenty-five thousand dollars (\$25,000), subject to annual
19 adjustment under section 118, shall be advertised in the manner
20 provided by law and competitively bid and awarded to the lowest
21 responsible bidder. In case of emergencies and notwithstanding
22 any other provision of this section to the contrary, the board
23 of trustees may make or authorize others to make an emergency
24 procurement whenever a threat exists to public health, welfare
25 or safety or circumstances outside the control of the college
26 and creates an urgency of need which does not permit the delay
27 involved in using more formal competitive methods. Whenever
28 practical, in the case of a procurement of a supply, at least
29 two (2) bids shall be solicited. A written determination of the
30 basis for the emergency and for the selection of the particular

1 contractor shall be included in the contract file.

2 * * *

3 Section 4. Sections 2003-A.1(c) and 2010-A(10) of the act,
4 amended April 27, 1998 (P.L.270, No.46), are amended to read:

5 Section 2003-A.1. Project Contracts.--* * *

6 (c) All contracts, other than contracts for the retention of
7 architects and engineers, authorized by this section which
8 exceed [ten thousand dollars (\$10,000)] twenty-five thousand
9 dollars (\$25,000), subject to annual adjustment under section
10 118, shall be advertised in the manner provided by law and
11 competitively bid and awarded to the lowest responsible bidder.
12 In case of emergencies and notwithstanding any other provision
13 of this section to the contrary, the chancellor may make or
14 authorize others to make an emergency procurement whenever a
15 threat exists to public health, welfare or safety or
16 circumstances outside the control of the State system and
17 creates an urgency of need which does not permit the delay
18 involved in using more formal competitive methods. Whenever
19 practical, in the case of a procurement of a supply, at least
20 two (2) bids shall be solicited. A written determination of the
21 basis for the emergency and for the selection of the particular
22 contractor shall be included in the contract file.

23 * * *

24 Section 2010-A. Power and Duties of Institution
25 Presidents.--The president of each institution shall be
26 appointed by the board. The president shall be the chief
27 executive officer of that institution. He shall have the right
28 to attend all meetings of the council of that institution and
29 shall have the right to speak on all matters before the council
30 but not to vote. Subject to the stated authority of the board

1 and the council, each president shall have the following powers
2 and duties:

3 * * *

4 (10) Within the limitations of the operating budget and
5 other available funds in accordance with the procedures
6 established by the board and with the approval of the local
7 council, to negotiate and award all contracts for equipment,
8 services and supplies in excess of a cost of [ten thousand
9 dollars (\$10,000)] twenty-five thousand dollars (\$25,000),
10 subject to annual adjustment under section 118, on a competitive
11 bid basis and to purchase instructional, educational,
12 extracurricular, technical, administrative, custodial and
13 maintenance equipment and supplies not in excess of a cost of
14 [ten thousand dollars (\$10,000)] twenty-five thousand dollars
15 (\$25,000), subject to annual adjustment under section 118,
16 without competitive bidding, except that such items shall not be
17 bought in series to avoid the dollar ceiling.

18 * * *

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

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