
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 286 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 April 29, 1937 (P.L.526, No.118), entitled,
2 as reenacted and amended, "An act providing for and
3 regulating joint purchases by counties (other than counties
4 of the first class), cities of the second and third class,
5 boroughs, towns, townships, school districts, institution
6 districts, and poor districts," increasing the amount of
7 purchases that may be made subject to certain conditions.

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

10 Section 1. Section 2 of the act of April 29, 1937 (P.L.526,
11 No.118), referred to as the Political Subdivision Joint
12 Purchases Law, reenacted and amended July 28, 1941 (P.L.544,
13 No.224) and amended July 10, 1990 (P.L.398, No.95), is amended
14 to read:

15 Section 2. (a) All such purchases involving the expenditure

1 of over [ten thousand dollars (\$10,000)] twenty-five thousand
2 dollars (\$25,000) subject to annual adjustment under subsection
3 (b.1) shall be in writing, and shall be made only after notice,
4 by one of the political subdivisions joining therein, once a
5 week for two weeks in one or more newspapers of general
6 circulation published in the political subdivision advertising
7 the same. All plans and specifications shall be placed on file
8 by each of the political subdivisions joining in such purchase
9 at least fifteen days in advance of opening bids.

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

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

1 by the United States Department of Labor, Bureau of Labor
2 Statistics, for the twelve-month average ending in September of
3 the prior year.

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

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

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

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

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

1 under paragraph (1) is made.

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

11 (c) No county or municipal government shall evade the
12 provisions of this section as to advertising for bids or
13 purchasing materials or contracting for services piecemeal for
14 the purpose of obtaining prices under [ten thousand dollars
15 (\$10,000)] twenty-five thousand dollars (\$25,000) subject to
16 annual adjustment under subsection (b.1) upon transactions which
17 should, in the exercise of reasonable discretion and prudence,
18 be conducted as one transaction amounting to more than [ten
19 thousand dollars (\$10,000)] twenty-five thousand dollars
20 (\$25,000) subject to annual adjustment under subsection (b.1).

21 This provision is intended to make unlawful the practice of
22 evading advertising requirements by making a series of purchases
23 or contracts each for less than the advertising requirement
24 price or by making several simultaneous purchases or contracts
25 each below said price, when in either case the transaction
26 involved should have been made as one transaction for one price.

27 (d) Any member of a governing body of a county or
28 municipality who votes to unlawfully evade the provisions of
29 this section and who knows that the transaction upon which he so
30 votes is or ought to be a part of a larger transaction and that

1 it is being divided in order to evade the requirements as to
2 advertising for bids commits a misdemeanor of the third degree
3 for each contract entered into as a direct result of that vote.

4 (e) Every contract for the construction, reconstruction,
5 alteration, repair, improvement or maintenance of public works
6 shall comply with the provisions of the act of March 3, 1978
7 (P.L.6, No.3), known as the "Steel Products Procurement Act."

8 Section 2. This act shall apply to contracts and purchases
9 advertised on or after January 1 of the year following the
10 effective date of this section.

11 Section 3. This act shall take effect immediately.