

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, 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, WATSON AND F. KELLER, JANUARY 27, 2011

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

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

28 ~~(b.1) (1) Annually, beginning with the year in which this~~ ←
29 ~~subsection becomes applicable to contracts and purchases, the~~
30 ~~Department of Labor and Industry shall calculate the percentage~~

1 ~~change in the Consumer Price Index for All Urban Consumers (CPI-~~
2 ~~U) for the United States city average for all items as published~~
3 ~~by the United States Department of Labor, Bureau of Labor-~~
4 ~~Statistics, for the twelve month average ending in September of~~
5 ~~the prior year.~~

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

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

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

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

30 ~~(4) The adjusted amounts obtained in accordance with~~

~~1 paragraph (2) shall become effective January 1 for the calendar
2 year following the year in which the determination required
3 under paragraph (1) is made.~~

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

13 (B.1) ADJUSTMENTS TO THE BASE AMOUNTS SPECIFIED UNDER
14 SUBSECTIONS (A) AND (B) SHALL BE MADE AS FOLLOWS:

15 (1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE THE
16 PERCENTAGE CHANGE IN THE ALL ITEMS CONSUMER PRICE INDEX FOR ALL
17 URBAN CONSUMERS (CPI-U) FOR THE UNITED STATES CITY AVERAGE AS
18 PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF
19 LABOR STATISTICS FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER 30
20 OF THE CALENDAR YEAR IN WHICH THIS SUBSECTION BECOMES EFFECTIVE,
21 AND FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD THEREAFTER.

22 (2) IF THE DEPARTMENT DETERMINES THAT THERE IS NO POSITIVE
23 PERCENTAGE CHANGE, THEN NO ADJUSTMENT TO THE BASE AMOUNTS SHALL
24 OCCUR FOR THE RELEVANT TIME PERIOD PROVIDED FOR IN THIS
25 SUBSECTION.

26 (3) (I) IF THE DEPARTMENT DETERMINES THAT THERE IS A
27 POSITIVE PERCENTAGE CHANGE IN THE FIRST YEAR THAT THE
28 DETERMINATION IS MADE UNDER PARAGRAPH (1), THE POSITIVE
29 PERCENTAGE CHANGE SHALL BE MULTIPLIED BY EACH BASE AMOUNT AND
30 THE PRODUCTS SHALL BE ADDED TO THE BASE AMOUNTS, RESPECTIVELY,

1 AND THE SUMS SHALL BE PRELIMINARY ADJUSTED AMOUNTS.

2 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO
3 THE NEAREST ONE THOUSAND DOLLARS (\$1,000), TO DETERMINE THE
4 FINAL ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND
5 (B).

6 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE
7 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY
8 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY
9 THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS
10 SHALL BE ADDED TO THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS,
11 RESPECTIVELY. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST
12 ONE THOUSAND DOLLARS (\$1,000) TO DETERMINE THE NEW FINAL
13 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (B).

14 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS
15 SUBSECTION SHALL BE MADE IN THE PERIOD BETWEEN OCTOBER 1 AND
16 NOVEMBER 15 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS
17 SUBSECTION, AND ANNUALLY BETWEEN OCTOBER 1 AND NOVEMBER 15 OF
18 EACH YEAR THEREAFTER.

19 (6) THE FINAL ADJUSTED BASE AMOUNTS AND NEW FINAL ADJUSTED
20 BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL BECOME
21 EFFECTIVE JANUARY 1 FOR THE CALENDAR YEAR FOLLOWING THE YEAR IN
22 WHICH THE DETERMINATION REQUIRED UNDER PARAGRAPH (1) IS MADE.

23 (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA
24 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL
25 PERCENTAGE CHANGE DETERMINED UNDER PARAGRAPH (1) AND THE
26 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER
27 PARAGRAPHS (3) AND (4) AT WHICH COMPETITIVE BIDDING IS REQUIRED
28 UNDER SUBSECTION (A) AND WRITTEN OR TELEPHONIC PRICE QUOTATIONS
29 ARE REQUIRED UNDER SUBSECTION (B), RESPECTIVELY, FOR THE
30 CALENDAR YEAR BEGINNING THE FIRST DAY OF JANUARY AFTER

1 PUBLICATION OF THE NOTICE. THE NOTICE SHALL INCLUDE A WRITTEN
2 AND ILLUSTRATIVE EXPLANATION OF THE CALCULATIONS PERFORMED BY
3 THE DEPARTMENT IN ESTABLISHING THE UNADJUSTED OR FINAL ADJUSTED
4 BASE AMOUNTS UNDER THIS SUBSECTION FOR THE ENSUING CALENDAR
5 YEAR.

6 (c) No county or municipal government shall evade the
7 provisions of this section as to advertising for bids or
8 purchasing materials or contracting for services piecemeal for
9 the purpose of obtaining prices under [ten thousand dollars
10 (\$10,000)] THE BASE AMOUNT OF twenty-five thousand dollars ←
11 (\$25,000) subject to annual adjustment under subsection (b.1)
12 upon transactions which should, in the exercise of reasonable
13 discretion and prudence, be conducted as one transaction
14 amounting to more than [ten thousand dollars (\$10,000)] THE BASE ←
15 AMOUNT OF twenty-five thousand dollars (\$25,000) subject to
16 annual adjustment under subsection (b.1). This provision is
17 intended to make unlawful the practice of evading advertising
18 requirements by making a series of purchases or contracts each
19 for less than the advertising requirement price or by making
20 several simultaneous purchases or contracts each below said
21 price, when in either case the transaction involved should have
22 been made as one transaction for one price.

23 (d) Any member of a governing body of a county or
24 municipality who votes to unlawfully evade the provisions of
25 this section and who knows that the transaction upon which he so
26 votes is or ought to be a part of a larger transaction and that
27 it is being divided in order to evade the requirements as to
28 advertising for bids commits a misdemeanor of the third degree
29 for each contract entered into as a direct result of that vote.

30 (e) Every contract for the construction, reconstruction,

1 alteration, repair, improvement or maintenance of public works
2 shall comply with the provisions of the act of March 3, 1978
3 (P.L.6, No.3), known as the "Steel Products Procurement Act."

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

7 Section 3. This act shall take effect immediately.