
 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

SENATOR EICHELBERGER, LOCAL GOVERNMENT, IN SENATE, AS AMENDED, SEPTEMBER 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:~~

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

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

30 ~~(1) The Department of Labor and Industry shall determine the~~

~~1 percentage change in the All Items Consumer Price Index for All
2 Urban Consumers (CPI-U) for the United States City Average as
3 published by the United States Department of Labor, Bureau of
4 Labor Statistics for the twelve month period ending September 30
5 of the calendar year in which this subsection becomes effective,
6 and for each successive twelve month period thereafter.~~

~~7 (2) If the department determines that there is no positive
8 percentage change, then no adjustment to the base amounts shall
9 occur for the relevant time period provided for in this
10 subsection.~~

~~11 (3) (i) If the department determines that there is a
12 positive percentage change in the first year that the
13 determination is made under paragraph (1), the positive
14 percentage change shall be multiplied by each base amount and
15 the products shall be added to the base amounts, respectively,
16 and the sums shall be preliminary adjusted amounts.~~

~~17 (ii) The preliminary adjusted amounts shall be rounded to
18 the nearest one thousand dollars (\$1,000), to determine the
19 final adjusted base amounts for purposes of subsections (a) and
20 (b).~~

~~21 (4) In each successive year in which there is a positive
22 percentage change in the CPI-U for the United States City
23 Average, the positive percentage change shall be multiplied by
24 the most recent preliminary adjusted amounts and the products
25 shall be added to the most recent preliminary adjusted amounts,
26 respectively. The sums thereof shall be rounded to the nearest
27 one thousand dollars (\$1,000) to determine the new final
28 adjusted base amounts for purposes of subsections (a) and (b).~~

~~29 (5) The determinations and adjustments required under this
30 subsection shall be made in the period between October 1 and~~

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

4 ~~(6) The final adjusted base amounts and new final adjusted~~
5 ~~base amounts obtained under paragraphs (3) and (4) shall become~~
6 ~~effective January 1 for the calendar year following the year in~~
7 ~~which the determination required under paragraph (1) is made.~~

8 ~~(7) The department shall publish notice in the Pennsylvania~~
9 ~~Bulletin prior to January 1 of each calendar year of the annual~~
10 ~~percentage change determined under paragraph (1) and the~~
11 ~~unadjusted or final adjusted base amounts determined under~~
12 ~~paragraphs (3) and (4) at which competitive bidding is required~~
13 ~~under subsection (a) and written or telephonic price quotations~~
14 ~~are required under subsection (b), respectively, for the~~
15 ~~calendar year beginning the first day of January after~~
16 ~~publication of the notice. The notice shall include a written~~
17 ~~and illustrative explanation of the calculations performed by~~
18 ~~the department in establishing the unadjusted or final adjusted~~
19 ~~base amounts under this subsection for the ensuing calendar~~
20 ~~year.~~

21 ~~(c) No county or municipal government shall evade the~~
22 ~~provisions of this section as to advertising for bids or~~
23 ~~purchasing materials or contracting for services piecemeal for~~
24 ~~the purpose of obtaining prices under [ten thousand dollars~~
25 ~~(\$10,000)] the base amount of twenty five thousand dollars~~
26 ~~(\$25,000) subject to annual adjustment under subsection (b.1)~~
27 ~~upon transactions which should, in the exercise of reasonable~~
28 ~~discretion and prudence, be conducted as one transaction~~
29 ~~amounting to more than [ten thousand dollars (\$10,000)] the base~~
30 ~~amount of twenty five thousand dollars (\$25,000) subject to~~

1 ~~annual adjustment under subsection (b.1). This provision is~~
2 ~~intended 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 ~~(d) Any member of a governing body of a county or~~
9 ~~municipality who votes to unlawfully evade the provisions of~~
10 ~~this section and who knows that the transaction upon which he so~~
11 ~~votes is or ought to be a part of a larger transaction and that~~
12 ~~it is being divided in order to evade the requirements as to~~
13 ~~advertising for bids commits a misdemeanor of the third degree~~
14 ~~for each contract entered into as a direct result of that vote.~~

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

19 ~~Section 2. 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 3. This act shall take effect immediately.~~

23 SECTION 1. SECTION 2 OF THE ACT OF APRIL 29, 1937 (P.L.526, ←
24 NO.118), REFERRED TO AS THE POLITICAL SUBDIVISION JOINT
25 PURCHASES LAW, REENACTED AND AMENDED JULY 28, 1941 (P.L.544, NO.
26 224) AND AMENDED JULY 10, 1990 (P.L.398, NO.95), IS AMENDED TO
27 READ:

28 SECTION 2. (A) ALL SUCH PURCHASES INVOLVING THE EXPENDITURE
29 OF OVER [TEN THOUSAND DOLLARS (\$10,000)] THE BASE AMOUNT OF
30 EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500) SUBJECT TO

1 ADJUSTMENT UNDER SUBSECTION (B.1) SHALL BE IN WRITING, AND SHALL
2 BE MADE ONLY AFTER NOTICE, BY ONE OF THE POLITICAL SUBDIVISIONS
3 JOINING THEREIN, ONCE A WEEK FOR TWO WEEKS IN ONE OR MORE
4 NEWSPAPERS OF GENERAL CIRCULATION PUBLISHED IN THE POLITICAL
5 SUBDIVISION ADVERTISING THE SAME. ALL PLANS AND SPECIFICATIONS
6 SHALL BE PLACED ON FILE BY EACH OF THE POLITICAL SUBDIVISIONS
7 JOINING IN SUCH PURCHASE AT LEAST FIFTEEN DAYS IN ADVANCE OF
8 OPENING BIDS.

9 (B) WRITTEN OR TELEPHONIC PRICE QUOTATIONS FROM AT LEAST
10 THREE QUALIFIED AND RESPONSIBLE CONTRACTORS SHALL BE REQUESTED
11 FOR ALL CONTRACTS THAT EXCEED [FOUR THOUSAND DOLLARS (\$4,000)]
12 THE BASE AMOUNT OF TEN THOUSAND DOLLARS (\$10,000) SUBJECT TO
13 ADJUSTMENT UNDER SUBSECTION (B.1) BUT ARE LESS THAN THE AMOUNT
14 REQUIRING ADVERTISEMENT AND COMPETITIVE BIDDING OR, IN LIEU OF
15 PRICE QUOTATIONS, A MEMORANDUM SHALL BE KEPT ON FILE SHOWING
16 THAT FEWER THAN THREE QUALIFIED CONTRACTORS EXIST IN THE MARKET
17 AREA WITHIN WHICH IT IS PRACTICABLE TO OBTAIN QUOTATIONS. A
18 WRITTEN RECORD OF TELEPHONIC PRICE QUOTATIONS SHALL BE MADE AND
19 SHALL CONTAIN AT LEAST THE DATE OF THE QUOTATION, THE NAME OF
20 THE CONTRACTOR AND THE CONTRACTOR'S REPRESENTATIVE, THE
21 CONSTRUCTION, RECONSTRUCTION, REPAIR, MAINTENANCE OR WORK WHICH
22 WAS THE SUBJECT OF THE QUOTATION AND THE PRICE. WRITTEN PRICE
23 QUOTATIONS, WRITTEN RECORDS OF TELEPHONIC PRICE QUOTATIONS AND
24 MEMORANDA SHALL BE RETAINED FOR A PERIOD OF THREE YEARS.

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

27 (1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE THE
28 PERCENTAGE CHANGE IN THE ALL ITEMS CONSUMER PRICE INDEX FOR ALL
29 URBAN CONSUMERS (CPI-U) FOR THE UNITED STATES CITY AVERAGE AS
30 PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF

1 LABOR STATISTICS FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER
2 30, 2012, AND FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD
3 THEREAFTER.

4 (2) IF THE DEPARTMENT DETERMINES THAT THERE IS NO POSITIVE
5 PERCENTAGE CHANGE, THEN NO ADJUSTMENT TO THE BASE AMOUNTS SHALL
6 OCCUR FOR THE RELEVANT TIME PERIOD PROVIDED FOR IN THIS
7 SUBSECTION.

8 (3) (I) IF THE DEPARTMENT DETERMINES THAT THERE IS A
9 POSITIVE PERCENTAGE CHANGE IN THE FIRST YEAR THAT THE
10 DETERMINATION IS MADE UNDER PARAGRAPH (1), THE POSITIVE
11 PERCENTAGE CHANGE SHALL BE MULTIPLIED BY EACH BASE AMOUNT AND
12 THE PRODUCTS SHALL BE ADDED TO THE BASE AMOUNTS, RESPECTIVELY,
13 AND THE SUMS SHALL BE PRELIMINARY ADJUSTED AMOUNTS.

14 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO
15 THE NEAREST ONE HUNDRED DOLLARS (\$100), TO DETERMINE THE FINAL
16 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (B).

17 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE
18 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY
19 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY
20 THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS
21 SHALL BE ADDED TO THE PRELIMINARY ADJUSTED AMOUNT OF THE PRIOR
22 YEAR TO CALCULATE THE PRELIMINARY ADJUSTED AMOUNTS FOR THE
23 CURRENT YEAR. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST
24 ONE HUNDRED DOLLARS (\$100) TO DETERMINE THE NEW FINAL ADJUSTED
25 BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (B).

26 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS
27 SUBSECTION SHALL BE MADE IN THE PERIOD BETWEEN OCTOBER 1 AND
28 NOVEMBER 15 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS
29 SUBSECTION, AND ANNUALLY BETWEEN OCTOBER 1 AND NOVEMBER 15 OF
30 EACH YEAR THEREAFTER.

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

5 (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA
6 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL
7 PERCENTAGE CHANGE DETERMINED UNDER PARAGRAPH (1) AND THE
8 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER
9 PARAGRAPHS (3) AND (4) AT WHICH COMPETITIVE BIDDING IS REQUIRED
10 UNDER SUBSECTION (A) AND WRITTEN OR TELEPHONIC PRICE QUOTATIONS
11 ARE REQUIRED UNDER SUBSECTION (B), RESPECTIVELY, FOR THE
12 CALENDAR YEAR BEGINNING THE FIRST DAY OF JANUARY AFTER
13 PUBLICATION OF THE NOTICE. THE NOTICE SHALL INCLUDE A WRITTEN
14 AND ILLUSTRATIVE EXPLANATION OF THE CALCULATIONS PERFORMED BY
15 THE DEPARTMENT IN ESTABLISHING THE UNADJUSTED OR FINAL ADJUSTED
16 BASE AMOUNTS UNDER THIS SUBSECTION FOR THE ENSUING CALENDAR
17 YEAR.

18 (8) THE ANNUAL INCREASE IN THE PRELIMINARY ADJUSTED BASE
19 AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL NOT EXCEED
20 THREE PERCENT.

21 (C) NO COUNTY OR MUNICIPAL GOVERNMENT SHALL EVADE THE
22 PROVISIONS OF THIS SECTION AS TO ADVERTISING FOR BIDS OR
23 PURCHASING MATERIALS OR CONTRACTING FOR SERVICES PIECEMEAL FOR
24 THE PURPOSE OF OBTAINING PRICES UNDER [TEN THOUSAND DOLLARS
25 (\$10,000)] THE BASE AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED
26 DOLLARS (\$18,500) SUBJECT TO ADJUSTMENT UNDER SUBSECTION (B.1)
27 UPON TRANSACTIONS WHICH SHOULD, IN THE EXERCISE OF REASONABLE
28 DISCRETION AND PRUDENCE, BE CONDUCTED AS ONE TRANSACTION
29 AMOUNTING TO MORE THAN [TEN THOUSAND DOLLARS (\$10,000)] THE BASE
30 AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500)

1 SUBJECT TO ADJUSTMENT UNDER SUBSECTION (B.1). THIS PROVISION IS
2 INTENDED 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 (D) ANY MEMBER OF A GOVERNING BODY OF A COUNTY OR
9 MUNICIPALITY WHO VOTES TO UNLAWFULLY EVADE THE PROVISIONS OF
10 THIS SECTION AND WHO KNOWS THAT THE TRANSACTION UPON WHICH HE SO
11 VOTES IS OR OUGHT TO BE A PART OF A LARGER TRANSACTION AND THAT
12 IT IS BEING DIVIDED IN ORDER TO EVADE THE REQUIREMENTS AS TO
13 ADVERTISING FOR BIDS COMMITS A MISDEMEANOR OF THE THIRD DEGREE
14 FOR EACH CONTRACT ENTERED INTO AS A DIRECT RESULT OF THAT VOTE.

15 (E) EVERY CONTRACT FOR THE CONSTRUCTION, RECONSTRUCTION,
16 ALTERATION, REPAIR, IMPROVEMENT OR MAINTENANCE OF PUBLIC WORKS
17 SHALL COMPLY WITH THE PROVISIONS OF THE ACT OF MARCH 3, 1978
18 (P.L.6, NO.3), KNOWN AS THE "STEEL PRODUCTS PROCUREMENT ACT."

19 SECTION 2. 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 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.