

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 294 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 Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, IN MUNICIPAL AUTHORITIES, further
3 providing for competitive bidding of contracts relating to
4 municipal authorities.



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

7 Section 1. Section 5614(a)(1), (b), (c) and (h)(1) of Title
8 53 of the Pennsylvania Consolidated Statutes are amended and the
9 section is amended by adding a subsection to read:

10 § 5614. Competition in award of contracts.

11 (a) Services.--

12 (1) Except as set forth in paragraph (2), all
13 construction, reconstruction, repair or work of any nature

1 made by an authority if the entire cost, value or amount,
2 including labor and materials, exceeds [\$10,000] THE BASE ←
3 AMOUNT OF \$25,000, subject to adjustment under subsection
4 (c.1), shall be done only under contract to be entered into
5 by the authority with the lowest responsible bidder upon
6 proper terms after public notice asking for competitive bids
7 as provided in this section.

8 * * *

9 (b) Supplies and materials.--All supplies and materials
10 costing at least [\$10,000] THE BASE AMOUNT OF \$25,000, subject ←
11 to adjustment under subsection (c.1), shall be purchased only
12 after advertisement as provided in this section. The authority
13 shall accept the lowest bid, kind, quality and material being
14 equal, but the authority shall have the right to reject any or
15 all bids or select a single item from any bid. The provisions as
16 to bidding shall not apply to the purchase of patented and
17 manufactured products offered for sale in a noncompetitive
18 market or solely by a manufacturer's authorized dealer.

19 (c) Quotations.--Written or telephonic price quotations from
20 at least three qualified and responsible contractors shall be
21 requested for a contract which exceeds [\$4,000] THE BASE AMOUNT ←
22 OF \$10,000, subject to adjustment under subsection (c.1), but is
23 less than the amount requiring advertisement and competitive
24 bidding. In lieu of price quotations, a memorandum shall be kept
25 on file showing that fewer than three qualified contractors
26 exist in the market area within which it is practicable to
27 obtain quotations. A written record of telephonic price
28 quotations shall be made and shall contain at least the date of
29 the quotation; the name of the contractor and the contractor's
30 representative; the construction, reconstruction, repair,

1 maintenance or work which was the subject of the quotation; and
2 the price. Written price quotations, written records of
3 telephonic price quotations and memoranda shall be retained for
4 a period of three years.

5 (c.1) Adjustments.--

6 ~~(1) The Department of Labor and Industry shall determine~~ ←
7 ~~the percentage change in the Consumer Price Index for All~~
8 ~~Urban Consumers for the 12 month period ending September 30~~
9 ~~of the calendar year in which this subsection becomes~~
10 ~~effective and for each successive 12 month period thereafter.~~

11 ~~(2) The amount at which competitive bidding is required~~
12 ~~under subsection (a) (1) and the amount at which written or~~
13 ~~telephonic price quotations are required under subsection (b)~~
14 ~~shall be adjusted annually as follows:~~

15 ~~(i) For subsection (a) (1):~~

16 ~~(A) Multiply the positive percentage change~~
17 ~~under paragraph (1) by the amount applicable under~~
18 ~~subsection (a) for the current year.~~

19 ~~(B) Add the product under clause (A) to the~~
20 ~~amount applicable under subsection (a) (1) for the~~
21 ~~current year.~~

22 ~~(C) Round the sum under clause (B) to the~~
23 ~~nearest multiple of \$10.~~

24 ~~(ii) For subsection (b):~~

25 ~~(A) Multiply the positive percentage change, as~~
26 ~~determined under paragraph (1) by the amount~~
27 ~~applicable under subsection (a) (1) for the current~~
28 ~~year.~~

29 ~~(B) Add the product under clause (A) to the~~
30 ~~amount applicable under subsection (b) for the~~

1 ~~current year.~~

2 ~~(C) Round the sum under clause (B) to the~~
3 ~~nearest multiple of \$10.~~

4 ~~(3) The annual determination required under paragraph~~
5 ~~(1) and the calculation of the adjustments required under~~
6 ~~paragraph (2) shall be made in the period between October 1~~
7 ~~and November 15 of the year following the effective date of~~
8 ~~this subsection and annually between October 1 and November~~
9 ~~15 of each successive year.~~

10 ~~(4) The adjusted amounts obtained under paragraph (2)~~
11 ~~shall become effective January 1 for the calendar year~~
12 ~~following the year in which the determination required under~~
13 ~~paragraph (1) is made.~~

14 ~~(5) The department shall give notice in the Pennsylvania~~
15 ~~Bulletin prior to January 1 of each calendar year of the~~
16 ~~annual percentage change determined in accordance with~~
17 ~~paragraph (1) and the amounts, whether adjusted or unadjusted~~
18 ~~in accordance with paragraph (2), at which competitive~~
19 ~~bidding is required under subsection (a) (1) and written or~~
20 ~~telephonic price quotations are required under subsection (b)~~
21 ~~for the calendar year beginning the first day of January~~
22 ~~after publication of the notice. ADJUSTMENTS TO THE BASE~~ ←
23 ~~AMOUNTS SPECIFIED UNDER SUBSECTIONS (A) AND (B) SHALL BE MADE~~
24 ~~AS FOLLOWS:~~

25 ~~(1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE~~
26 ~~THE PERCENTAGE CHANGE IN THE ALL ITEMS CONSUMER PRICE INDEX~~
27 ~~FOR ALL URBAN CONSUMERS (CPI-U) FOR THE UNITED STATES CITY~~
28 ~~AVERAGE AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF~~
29 ~~LABOR, BUREAU OF LABOR STATISTICS FOR THE 12-MONTH PERIOD~~
30 ~~ENDING SEPTEMBER 30 OF THE CALENDAR YEAR IN WHICH THIS~~

1 SUBSECTION BECOMES EFFECTIVE, AND FOR EACH SUCCESSIVE 12-
2 MONTH PERIOD THEREAFTER.

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

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

14 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE
15 ROUNDED TO THE NEAREST \$1,000, TO DETERMINE THE FINAL
16 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND
17 (B).

18 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE
19 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY
20 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED
21 BY THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE
22 PRODUCTS SHALL BE ADDED TO THE MOST RECENT PRELIMINARY
23 ADJUSTED AMOUNTS, RESPECTIVELY. THE SUMS THEREOF SHALL BE
24 ROUNDED TO THE NEAREST \$1,000 TO DETERMINE THE NEW FINAL
25 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND
26 (B).

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

1 15 OF EACH YEAR THEREAFTER.

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

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

20 * * *

21 (h) Evasion.--

22 (1) An authority may not evade the provisions of this
23 section as to bids or purchasing materials or contracting for
24 services piecemeal for the purpose of obtaining prices under
25 [\$10,000] the amount required by this section upon
26 transactions which should, in the exercise of reasonable
27 discretion and prudence, be conducted as one transaction
28 amounting to more than [\$10,000] the amount required by this
29 section.

30 * * *

1 Section 2. This act shall apply to contracts and purchases
2 advertised after December 31 of the year in which this section
3 takes effect.

4 Section 3. This act shall take effect immediately.