
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 281 Session of
2011

INTRODUCED BY EICHELBERGER, KASUNIC, FOLMER, GORDNER, BOSCOLA,
ORIE, RAFFERTY, YAW, M. WHITE, D. WHITE, ERICKSON, BAKER,
ALLOWAY, BRUBAKER, GREENLEAF, SMUCKER, EARLL, SCARNATI,
FERLO, ROBBINS, VANCE, WAUGH, McILHINNEY AND PICCOLA,
JANUARY 26, 2011

REFERRED TO LOCAL GOVERNMENT, JANUARY 26, 2011

AN ACT

1 Amending the act of August 9, 1955 (P.L.323, No.130), entitled,
2 as amended, "An act relating to counties of the first, third,
3 fourth, fifth, sixth, seventh and eighth classes; amending,
4 revising, consolidating and changing the laws relating
5 thereto; relating to imposition of excise taxes by counties,
6 including authorizing imposition of an excise tax on the
7 rental of motor vehicles by counties of the first class; and
8 providing for regional renaissance initiatives," further
9 providing for commissioners sole contractors for county, for
10 contract procedures, terms and bonds and advertising for bids
11 and for evasion of advertising requirements.

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

14 Section 1. Sections 1801 and 1802(a) and (b) of the act of
15 August 9, 1955 (P.L.323, No.130), known as The County Code,
16 amended December 22, 2000 (P.L.1019, No.142), are amended to
17 read:

18 Section 1801. Commissioners Sole Contractors for County.--
19 (a) The county commissioners shall contract for and purchase
20 all services referred to in section five hundred eight and
21 personal property for county officers and agencies. All

1 contracts and purchases not in excess of [ten thousand dollars
2 (\$10,000)] twenty-five thousand dollars (\$25,000), subject to
3 adjustment under subsection (b.1), shall be by note or
4 memorandum, in writing, signed by the county commissioners, or
5 their designee. A copy of all such notes and memorandums and all
6 written contracts shall be filed in the office of the
7 controller, if any, and, if not, then with the chief clerk of
8 the commissioners.

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 seven thousand dollars (\$7,000), subject to adjustment under
13 subsection (b.1), but are less than the amount requiring
14 advertisement and competitive bidding or, in lieu of price
15 quotations, a memorandum shall be kept on file showing that
16 fewer than three qualified contractors exist in the market area
17 within which it is practicable to obtain quotations. A written
18 record of telephonic price quotations shall be made and shall
19 contain at least the date of the quotation, the name of the
20 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) (1) Every five years, beginning with the year in
26 which this subsection becomes applicable to contracts and
27 purchases, the Department of Labor and Industry shall calculate
28 the average percentage change in the Consumer Price Index for
29 All Urban Consumers (CPI-U) for the United States city average
30 for all items as published by the United States Department of

1 Labor, Bureau of Labor Statistics, for the preceding five years.

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

6 (i) In the case of competitive bidding, the positive
7 percentage change, as determined in accordance with paragraph
8 (1), shall be multiplied by the amount in effect under
9 subsection (a) for the prior five-year period and the product
10 thereof shall be added to the amount in effect under subsection
11 (a) for the prior five-year period, with the result rounded to
12 the nearest multiple of one hundred dollars (\$100).

13 (ii) In the case of written or telephonic price quotations,
14 the positive percentage change, as determined in accordance with
15 paragraph (1), shall be multiplied by the amount in effect under
16 subsection (b) for the prior five-year period and the product
17 thereof shall be added to the amount in effect under subsection
18 (b) for the prior five-year period, with the result rounded to
19 the nearest multiple of one hundred dollars (\$100).

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

25 (4) The adjusted amounts obtained in accordance with
26 paragraph (2) shall become effective January 1 for a five-year
27 period following the year in which the determination required
28 under paragraph (1) is made.

29 (5) The Department of Labor and Industry shall give notice
30 in the Pennsylvania Bulletin prior to January 1 of each calendar

1 year in which the percentage change determined in accordance
2 with paragraph (1) and the amounts, whether adjusted or
3 unadjusted in accordance with paragraph (2), at which
4 competitive bidding is required under subsection (a) and written
5 or telephonic price quotations are required under subsection (b)
6 for the five-year period beginning the first day of January
7 after publication of the notice.

8 (c) The commissioners shall, where possible, anticipate the
9 needs of the various officers, agencies and operations of the
10 county and endeavor to purchase in wholesale quantities, where
11 practicable and where savings could be achieved thereby. The
12 commissioners may make contracts and purchases for all purposes
13 expressly or impliedly authorized by law.

14 Section 1802. Contract Procedures; Terms and Bonds;
15 Advertising for Bids.--(a) All contracts for services and
16 personal property where the amount thereof exceeds the sum of
17 [ten thousand dollars (\$10,000)] twenty-five thousand dollars
18 (\$25,000), subject to adjustment under section 1801(b.1), shall
19 be written and shall, except as otherwise hereinafter specified,
20 be made by advertising for bids.

21 (b) Contracts or purchases in excess of [ten thousand
22 dollars (\$10,000)] twenty-five thousand dollars (\$25,000),
23 subject to adjustment under section 1801(b.1), except those
24 hereinafter mentioned and except as provided by the act of
25 October 27, 1979 (P.L.241, No.78), entitled "An act authorizing
26 political subdivisions, municipality authorities and
27 transportation authorities to enter into contracts for the
28 purchase of goods and the sale of real and personal property
29 where no bids are received," shall not be made except with and
30 from the lowest responsible and responsive bidder submitting a

1 bid in conformity with the specifications approved by the board
2 of commissioners for the contract or purchase, after due notice
3 in one newspaper of general circulation, published or
4 circulating in the county, at least two times at intervals of
5 not less than three days where daily newspapers of general
6 circulation are employed for such publication, or in case weekly
7 newspapers are employed then the notice shall be published once
8 a week for two successive weeks. The first advertisement shall
9 be published not less than ten days prior to the date fixed for
10 the opening of bids. The requirements of this subsection need
11 not be followed in cases of emergency, but in such cases the
12 actual emergency shall be declared and stated by resolution of
13 the commissioners.

14 * * *

15 Section 2. Section 1803 of the act, amended July 10, 1990
16 (P.L.379, No.89), is amended to read:

17 Section 1803. Evasion of Advertising Requirements.--(a) No
18 commissioner or commissioners shall evade the provisions of
19 section one thousand eight hundred two of this act, as to
20 advertising for bids or purchasing or contracting for services
21 and personal properties piece-meal, for the purpose of obtaining
22 prices under [ten thousand dollars (\$10,000)] twenty-five
23 thousand dollars (\$25,000), subject to adjustment under section
24 1801(b.1), upon transactions which should in the exercise of
25 reasonable discretion and prudence be conducted as one
26 transaction amounting to more than [ten thousand dollars
27 (\$10,000)] twenty-five thousand dollars (\$25,000), subject to
28 adjustment under section 1801(b.1). This provision is intended
29 to make unlawful the practice of evading advertising
30 requirements by making a series of purchases or contracts each

1 for less than the advertising requirement price, or by making
2 several simultaneous purchases or contracts each below said
3 price, when in either case the transaction involved should have
4 been made as one transaction for one price. Any county
5 commissioners who so vote in violation of this provision and who
6 know that the transaction upon which they so vote is or ought to
7 be a part of a larger transaction and that it is being divided
8 in order to evade the requirements as to advertising for bids
9 shall be, jointly and severally, subject to surcharge for any
10 loss sustained. Wherever it shall appear that a commissioner may
11 have voted in violation of this section, but the purchase or
12 contract on which he so voted was not approved by the board of
13 county commissioners, this section shall be inapplicable.

14 (b) Any county commissioner who votes to unlawfully evade
15 the provisions of section one thousand eight hundred two of this
16 act and who knows that the transaction upon which he so votes is
17 or ought to be a part of a larger transaction and that it is
18 being divided in order to evade the requirements as to
19 advertising for bids commits a misdemeanor of the third degree
20 for each contract entered into as a direct result of that vote.
21 This penalty shall be in addition to any surcharge which may be
22 assessed pursuant to subsection (a).

23 Section 3. This act shall apply to contracts and purchases
24 advertised on or after January 1 of the year following the
25 effective date of this section.

26 Section 4. This act shall take effect immediately.