

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, PICCOLA, WARD,
MENSCH AND BROWNE, JANUARY 26, 2011

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
SEPTEMBER 20, 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

1 personal property for county officers and agencies. All
2 contracts and purchases not in excess of [ten thousand dollars
3 (\$10,000)] ~~twenty five thousand dollars (\$25,000)~~ THE BASE
4 AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500),
5 subject to adjustment under subsection (b.1), shall be by note
6 or memorandum, in writing, signed by the county commissioners,
7 or their designee. A copy of all such notes and memorandums and
8 all written contracts shall be filed in the office of the
9 controller, if any, and, if not, then with the chief clerk of
10 the commissioners.

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)~~ IN EXCESS OF THE BASE AMOUNT OF
15 TEN THOUSAND DOLLARS (\$10,000), subject to adjustment under
16 subsection (b.1), but are less than the amount requiring
17 advertisement and competitive bidding or, in lieu of price
18 quotations, a memorandum shall be kept on file showing that
19 fewer than three qualified contractors exist in the market area
20 within which it is practicable to obtain quotations. A written
21 record of telephonic price quotations shall be made and shall
22 contain at least the date of the quotation, the name of the
23 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) (1) Every five years, beginning with the year in~~
29 ~~which this subsection becomes applicable to contracts and~~
30 ~~purchases, the Department of Labor and Industry shall calculate~~

1 ~~the average percentage change in the Consumer Price Index for~~
2 ~~All Urban Consumers (CPI-U) for the United States city average~~
3 ~~for all items as published by the United States Department of~~
4 ~~Labor, Bureau of Labor Statistics, for the preceding five years.~~

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

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

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

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

28 ~~(4) The adjusted amounts obtained in accordance with~~
29 ~~paragraph (2) shall become effective January 1 for a five year~~
30 ~~period 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 in which the 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 five year period beginning the first day of January~~
10 ~~after publication of the notice.~~

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

13 (1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE THE
14 PERCENTAGE CHANGE IN THE ALL ITEMS CONSUMER PRICE INDEX FOR ALL
15 URBAN CONSUMERS (CPI-U) FOR THE UNITED STATES CITY AVERAGE AS
16 PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF
17 LABOR STATISTICS FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER
18 30, 2012, AND FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD
19 THEREAFTER.

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

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

30 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO

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

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

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

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

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

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

5 (8) NO ADJUSTMENT TO THE BASE AMOUNTS SPECIFIED UNDER
6 SUBSECTIONS (A) AND (B) SHALL EXCEED THREE PERCENT OF THE MOST
7 RECENTLY ADJUSTED BASE AMOUNT.

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 BASE amount thereof exceeds the sum ←
17 of [ten thousand dollars (\$10,000)] ~~twenty five thousand dollars~~ ←
18 ~~(\$25,000)~~ EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500), ←
19 subject to adjustment under section 1801(b.1), shall be written
20 and shall, except as otherwise hereinafter specified, be made by
21 advertising for bids.

22 (b) Contracts or purchases in excess of [ten thousand
23 dollars (\$10,000)] ~~twenty five thousand dollars (\$25,000)~~ THE ←
24 BASE AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500),
25 subject to adjustment under section 1801(b.1), except those
26 hereinafter mentioned and except as provided by the act of
27 October 27, 1979 (P.L.241, No.78), entitled "An act authorizing
28 political subdivisions, municipality authorities and
29 transportation authorities to enter into contracts for the
30 purchase of goods and the sale of real and personal property

1 where no bids are received," shall not be made except with and
2 from the lowest responsible and responsive bidder submitting a
3 bid in conformity with the specifications approved by the board
4 of commissioners for the contract or purchase, after due notice
5 in one newspaper of general circulation, published or
6 circulating in the county, at least two times at intervals of
7 not less than three days where daily newspapers of general
8 circulation are employed for such publication, or in case weekly
9 newspapers are employed then the notice shall be published once
10 a week for two successive weeks. The first advertisement shall
11 be published not less than ten days prior to the date fixed for
12 the opening of bids. The requirements of this subsection need
13 not be followed in cases of emergency, but in such cases the
14 actual emergency shall be declared and stated by resolution of
15 the commissioners.

16 * * *

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

19 Section 1803. Evasion of Advertising Requirements.--(a) No
20 commissioner or commissioners shall evade the provisions of
21 section one thousand eight hundred two of this act, as to
22 advertising for bids or purchasing or contracting for services
23 and personal properties piece-meal, for the purpose of obtaining
24 prices under [ten thousand dollars (\$10,000)] ~~twenty five~~ ←
25 ~~thousand dollars (\$25,000)~~ THE BASE AMOUNT OF EIGHTEEN THOUSAND ←
26 FIVE HUNDRED DOLLARS (\$18,500), subject to adjustment under
27 section 1801(b.1), upon transactions which should in the
28 exercise of reasonable discretion and prudence be conducted as
29 one transaction amounting to more than [ten thousand dollars
30 (\$10,000)] ~~twenty five thousand dollars (\$25,000)~~ THE BASE ←

1 AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500),
2 subject to adjustment under section 1801(b.1). This provision is
3 intended to make unlawful the practice of evading advertising
4 requirements by making a series of purchases or contracts each
5 for less than the advertising requirement price, or by making
6 several simultaneous purchases or contracts each below said
7 price, when in either case the transaction involved should have
8 been made as one transaction for one price. Any county
9 commissioners who so vote in violation of this provision and who
10 know that the transaction upon which they so vote is or ought to
11 be a part of a larger transaction and that it is being divided
12 in order to evade the requirements as to advertising for bids
13 shall be, jointly and severally, subject to surcharge for any
14 loss sustained. Wherever it shall appear that a commissioner may
15 have voted in violation of this section, but the purchase or
16 contract on which he so voted was not approved by the board of
17 county commissioners, this section shall be inapplicable.

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

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

30 Section 4. This act shall take effect immediately.