

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL****No. 281**      Session of  
2011

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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

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AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 26, 2011

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## 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)] the base amount of eighteen thousand five hundred  
3 dollars (\$18,500), subject to adjustment under subsection (b.1),  
4 shall be by note or memorandum, in writing, signed by the county  
5 commissioners, or their designee. A copy of all such notes and  
6 memorandums and all written contracts shall be filed in the  
7 office of the controller, if any, and, if not, then with the  
8 chief clerk of 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 in excess of the base amount of ten thousand dollars (\$10,000),  
13 subject to adjustment under subsection (b.1), but are less than  
14 the amount requiring advertisement and competitive bidding or,  
15 in lieu of price quotations, a memorandum shall be kept on file  
16 showing that fewer than three qualified contractors exist in the  
17 market area within which it is practicable to obtain quotations.  
18 A written record of telephonic price quotations shall be made  
19 and shall contain at least the date of the quotation, the name  
20 of 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 ~~thousand~~ HUNDRED dollars ~~(\$1,000)~~ (\$100), to  
16 determine the final adjusted base amounts for purposes of  
17 subsections (a) and (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 by  
21 the most recent preliminary adjusted amounts and the products  
22 shall be added to the preliminary adjusted amount of the prior  
23 year to calculate the preliminary adjusted amounts for the  
24 current year. The sums thereof shall be rounded to the nearest  
25 one ~~thousand~~ HUNDRED dollars ~~(\$1,000)~~ (\$100) to determine the  
26 new final adjusted base amounts for purposes of subsections (a)  
27 and (b).

28 (5) The determinations and adjustments required under this  
29 subsection shall be made in the period between October 1 and  
30 November 15 of the year following the effective date of this

1 subsection, and annually between October 1 and November 15 of  
2 each year thereafter.

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

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

20 ~~(8) No adjustment to the base amounts specified under~~ ←  
21 ~~subsections (a) and (b) shall exceed three percent of the most~~  
22 ~~recently adjusted base amount~~ THE ANNUAL INCREASE IN THE ←  
23 PRELIMINARY ADJUSTED BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3)  
24 AND (4) SHALL NOT EXCEED THREE PERCENT.

25 (c) The commissioners shall, where possible, anticipate the  
26 needs of the various officers, agencies and operations of the  
27 county and endeavor to purchase in wholesale quantities, where  
28 practicable and where savings could be achieved thereby. The  
29 commissioners may make contracts and purchases for all purposes  
30 expressly or impliedly authorized by law.

1 Section 1802. Contract Procedures; Terms and Bonds;  
2 Advertising for Bids.--(a) All contracts for services and  
3 personal property where the base amount thereof exceeds the sum  
4 of [ten thousand dollars (\$10,000)] eighteen thousand five  
5 hundred dollars (\$18,500), subject to adjustment under section  
6 1801(b.1), shall be written and shall, except as otherwise  
7 hereinafter specified, be made by advertising for bids.

8 (b) Contracts or purchases in excess of [ten thousand  
9 dollars (\$10,000)] the base amount of eighteen thousand five  
10 hundred dollars (\$18,500), subject to adjustment under section  
11 1801(b.1), except those hereinafter mentioned and except as  
12 provided by the act of October 27, 1979 (P.L.241, No.78),  
13 entitled "An act authorizing political subdivisions,  
14 municipality authorities and transportation authorities to enter  
15 into contracts for the purchase of goods and the sale of real  
16 and personal property where no bids are received," shall not be  
17 made except with and from the lowest responsible and responsive  
18 bidder submitting a bid in conformity with the specifications  
19 approved by the board of commissioners for the contract or  
20 purchase, after due notice in one newspaper of general  
21 circulation, published or circulating in the county, at least  
22 two times at intervals of not less than three days where daily  
23 newspapers of general circulation are employed for such  
24 publication, or in case weekly newspapers are employed then the  
25 notice shall be published once a week for two successive weeks.  
26 The first advertisement shall be published not less than ten  
27 days prior to the date fixed for the opening of bids. The  
28 requirements of this subsection need not be followed in cases of  
29 emergency, but in such cases the actual emergency shall be  
30 declared and stated by resolution of the commissioners.

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

4 Section 1803. Evasion of Advertising Requirements.--(a) No  
5 commissioner or commissioners shall evade the provisions of  
6 section one thousand eight hundred two of this act, as to  
7 advertising for bids or purchasing or contracting for services  
8 and personal properties piece-meal, for the purpose of obtaining  
9 prices under [ten thousand dollars (\$10,000)] the base amount of  
10 eighteen thousand five hundred dollars (\$18,500), subject to  
11 adjustment under section 1801(b.1), upon transactions which  
12 should in the exercise of reasonable discretion and prudence be  
13 conducted as one transaction amounting to more than [ten  
14 thousand dollars (\$10,000)] the base amount of eighteen thousand  
15 five hundred dollars (\$18,500), subject to adjustment under  
16 section 1801(b.1). This provision is intended to make unlawful  
17 the practice of evading advertising requirements by making a  
18 series of purchases or contracts each for less than the  
19 advertising requirement price, or by making several simultaneous  
20 purchases or contracts each below said price, when in either  
21 case the transaction involved should have been made as one  
22 transaction for one price. Any county commissioners who so vote  
23 in violation of this provision and who know that the transaction  
24 upon which they so vote is or ought to be a part of a larger  
25 transaction and that it is being divided in order to evade the  
26 requirements as to advertising for bids shall be, jointly and  
27 severally, subject to surcharge for any loss sustained. Wherever  
28 it shall appear that a commissioner may have voted in violation  
29 of this section, but the purchase or contract on which he so  
30 voted was not approved by the board of county commissioners,

1 this section shall be inapplicable.

2 (b) Any county commissioner who votes to unlawfully evade  
3 the provisions of section one thousand eight hundred two of this  
4 act and who knows that the transaction upon which he so votes is  
5 or ought to be a part of a larger transaction and that it is  
6 being divided in order to evade the requirements as to  
7 advertising for bids commits a misdemeanor of the third degree  
8 for each contract entered into as a direct result of that vote.  
9 This penalty shall be in addition to any surcharge which may be  
10 assessed pursuant to subsection (a).

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

14 Section 4. This act shall take effect immediately.