

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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

INTRODUCED BY EICHELBERGER, KASUNIC, FOLMER, GORDNER, BOSCOLA,
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MENSCH AND BROWNE, JANUARY 26, 2011

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 4, 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)] the base amount of eighteen thousand five hundred
4 dollars (\$18,500), subject to adjustment under subsection (b.1),
5 shall be by note or memorandum, in writing, signed by the county
6 commissioners, or their designee. A copy of all such notes and
7 memorandums and all written contracts shall be filed in the
8 office of the controller, if any, and, if not, then with the
9 chief clerk of the commissioners.

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

26 (b.1) Adjustments to the base amounts specified under
27 subsections (a) and (b) shall be made as follows:

28 (1) The Department of Labor and Industry shall determine the
29 percentage change in the All Items Consumer Price Index for All
30 Urban Consumers (CPI-U) for the United States City Average as

1 published by the United States Department of Labor, Bureau of
2 Labor Statistics for the twelve-month period ending September
3 30, 2012, and for each successive twelve-month period
4 thereafter.

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

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

15 (ii) The preliminary adjusted amounts shall be rounded to
16 the nearest one hundred dollars (\$100), to determine the final
17 adjusted base amounts for purposes of 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 hundred dollars (\$100) to determine the new final adjusted
26 base amounts for purposes of subsections (a) and (b).

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

1 each year thereafter.

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

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

19 (8) The annual increase in the preliminary adjusted base
20 amounts obtained under paragraphs (3) and (4) shall not exceed
21 three percent.

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

28 Section 1802. Contract Procedures; Terms and Bonds;
29 Advertising for Bids.--(a) All contracts for services and
30 personal property where the base amount thereof exceeds the sum

1 of [ten thousand dollars (\$10,000)] eighteen thousand five
2 hundred dollars (\$18,500), subject to adjustment under section
3 1801(b.1), shall be written and shall, except as otherwise
4 hereinafter specified, be made by advertising for bids.

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

28 * * *

29 Section 2. ~~Section 1803~~ SECTIONS 1803 AND 2317 of the act,
30 amended July 10, 1990 (P.L.379, No.89), ~~is~~ ARE amended to read:



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

29 (b) Any county commissioner who votes to unlawfully evade
30 the provisions of section one thousand eight hundred two of this

1 act and who knows that the transaction upon which he so votes is
2 or ought to be a part of a larger transaction and that it is
3 being divided in order to evade the requirements as to
4 advertising for bids commits a misdemeanor of the third degree
5 for each contract entered into as a direct result of that vote.
6 This penalty shall be in addition to any surcharge which may be
7 assessed pursuant to subsection (a).

8 SECTION 2317. SEPARATE BIDS FOR PLUMBING, HEATING, ←
9 VENTILATING, ELECTRICAL WORK, ELEVATORS AND MOVING STAIRS.--IN
10 THE PREPARATION OF SPECIFICATIONS FOR THE ERECTION, CONSTRUCTION
11 AND ALTERATION OF ANY PUBLIC BUILDING, WHEN THE ENTIRE COST OF
12 SUCH WORK SHALL EXCEED [TEN THOUSAND DOLLARS (\$10,000)] THE BASE
13 AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500)
14 SUBJECT TO ADJUSTMENT UNDER SECTION 1801(B.1) THE ARCHITECT,
15 ENGINEER OR OTHER PERSON PREPARING SUCH SPECIFICATIONS SHALL
16 PREPARE ONLY THE FOLLOWING SEPARATE SPECIFICATIONS: (1)
17 PLUMBING, (2) HEATING, (3) VENTILATING, (4) ELECTRICAL WORK, (5)
18 ELEVATORS AND MOVING STAIRS, AND (6) ONE COMPLETE SET OF
19 SPECIFICATIONS FOR ALL THE OTHER WORK TO BE DONE IN SUCH
20 ERECTION, CONSTRUCTION AND ALTERATION. THE BOARD OF
21 COMMISSIONERS SHALL RECEIVE SEPARATE BIDS UPON EACH OF THE SAID
22 BRANCHES OF WORK AND AWARD THE CONTRACT FOR THE SAME TO THE
23 LOWEST RESPONSIBLE BIDDER FOR EACH OF SAID BRANCHES, INCLUDING
24 THE BALANCE OF THE WORK IN ADDITION TO THE PLUMBING, HEATING,
25 VENTILATING AND ELECTRICAL WORK, AND ELEVATORS AND MOVING
26 STAIRS. WHERE IT IS DESIRED TO INSTALL AN AIR CONDITIONING UNIT,
27 THE HEATING AND VENTILATING SO INVOLVED MAY BE REGARDED AS ONE
28 BRANCH OF WORK HAVING ONLY ONE SET OF SPECIFICATIONS, AND BIDS
29 MAY BE RECEIVED AND A CONTRACT AWARDED THEREON, AS HEREINBEFORE
30 PROVIDED.

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

4 Section 4. This act shall take effect immediately.