

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 282** Session of
2011

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

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
SEPTEMBER 20, 2011

AN ACT

1 Amending the act of June 23, 1931 (P.L.932, No.317), entitled
2 "An act relating to cities of the third class; and amending,
3 revising, and consolidating the law relating thereto,"
4 further regulating contracts as to purchasing and advertising
5 requirements.

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

8 Section 1. Section 1901(a), (b) and (d) of the act of June
9 23, 1931 (P.L.932, No.317), known as The Third Class City Code,
10 reenacted and amended June 28, 1951 (P.L.662, No.164), amended
11 March 25, 1988 (P.L.289, No.32) and July 11, 1996 (P.L.647, No.
12 109), is amended to read:

13 Section 1901. Power to Make Contracts; Regulations
14 Concerning Contracts.--(a) Each city may make contracts for
15 carrying into execution the provisions of this act and the laws
16 of the Commonwealth. The council shall, by ordinance, provide
17 for and regulate the award of all contracts. All contracts or

1 purchases not in excess of [ten] ~~twenty five~~ THE BASE AMOUNT OF
2 EIGHTEEN thousand FIVE HUNDRED dollars, subject to adjustment
3 under section one thousand nine hundred and three point one of
4 this act, shall be by note or memorandum in writing, signed by
5 the officer or employe making the purchase or contract.

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6 (b) All services and personal properties required by any
7 city, or any department thereof, where the BASE amount exceeds
8 the sum of [ten] ~~twenty five~~ EIGHTEEN thousand FIVE HUNDRED
9 dollars, subject to adjustment under section one thousand nine
10 hundred and three point one of this act, shall be furnished and
11 performed under written contract, and the contract shall be
12 awarded and given to the lowest responsible bidder, after
13 advertising two times, each publication on a different day, in
14 not more than two newspapers, in accord with the provisions of
15 section one hundred and nine of this act, and the bids shall not
16 be opened until at least ten days have elapsed after the first
17 advertisement. A notice of the advertisement for contracts or
18 purchases shall also be posted at the city hall.

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20 (d) The contracts or purchases made by council involving an
21 expenditure [of over {ten}] ~~twenty five~~ IN EXCESS OF THE BASE
22 AMOUNT OF EIGHTEEN thousand FIVE HUNDRED dollars, subject to
23 adjustment under section one thousand nine hundred and three
24 point one of this act, which shall not require advertising or
25 bidding, as hereinbefore provided are as follows:

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26 (1) Those for maintenance, repairs or replacements for
27 water, electric light or other public works of the city,
28 provided they do not constitute new additions, extensions or
29 enlargements of existing facilities and equipment, but a bond
30 may be required by council as in other cases of work done.

1 (2) Those made for improvements, repairs and maintenance of
2 any kind made or provided by any city through its own employes:
3 Provided, however, That this shall not apply to construction
4 materials used in a street improvement.

5 (3) Those where particular types, models or pieces of new
6 equipment, articles, apparatus, appliances, vehicles, or parts
7 thereof, are desired by council, which are patented and
8 manufactured or copyrighted products.

9 (4) Those involving any policies of insurance or surety
10 company bonds; those made for public utility service under
11 tariffs on file with the Pennsylvania Public Utility Commission;
12 those made with another political subdivision or a county, the
13 Commonwealth of Pennsylvania, the Federal government, any agency
14 of the Commonwealth or the Federal government, or any municipal
15 authority, including the sale, leasing or loan of any supplies
16 or materials by the Commonwealth or the Federal government, or
17 their agencies, but the price thereof shall not be in excess of
18 that fixed by the Commonwealth, the Federal government, or their
19 agencies.

20 (5) Those involving personal or professional services.

21 (6) Those made during a state of emergency declared by the
22 mayor or chief executive in accord with section one thousand two
23 hundred and three of this act.

24 * * *

25 Section 2. Section 1902 of the act, amended March 25, 1988
26 (P.L.289, No.32), is amended to read:

27 Section 1902. Evasion of Advertising Requirements.--No
28 member or members of council shall evade the provisions of the
29 preceding section as to advertising for bids by purchasing or
30 contracting for services and personal properties piecemeal for

1 the purpose of obtaining prices under [ten] ~~twenty five~~ THE BASE ←
2 AMOUNT OF EIGHTEEN thousand FIVE HUNDRED dollars, subject to ←
3 adjustment under section one thousand nine hundred and three
4 point one of this act, upon transactions which should, in the
5 exercise of reasonable discretion and prudence, be conducted as
6 one transaction amounting to more than [ten] ~~twenty five~~ THE ←
7 BASE AMOUNT OF EIGHTEEN thousand FIVE HUNDRED dollars, subject ←
8 to adjustment under section one thousand nine hundred and three
9 point one of this act. This provision is intended to make
10 unlawful the practice of evading advertising requirements by
11 making a series of purchases or contracts, each for less than
12 the advertising requirement price, or by making several
13 simultaneous purchases or contracts, each below said price,
14 when, in either case, the transactions involved should have been
15 made as one transaction for one price. Any members of council
16 who so vote in violation of this provision and who know that the
17 transaction upon which they so vote is or ought to be a part of
18 a larger transaction and that it is being divided in order to
19 evade the requirements as to advertising for bids, shall be
20 jointly and severally subject to surcharge for ten per centum of
21 the full amount of the contract or purchase. Wherever it shall
22 appear that a member of council may have voted in violation of
23 this section but the purchase or contract on which he so voted
24 was not approved by council, this section shall be inapplicable.

25 Section 3. The act is amended by adding a section to read:

26 Section 1903.1. Adjustments TO BASE AMOUNT Based on Consumer ←
27 Price Index for All Urban Consumers.--(a) ~~Every five years,~~ ←
28 ~~beginning with the year in which this subsection becomes~~
29 ~~applicable to contracts and purchases, the Department of Labor~~
30 ~~and Industry shall calculate the average percentage change in~~

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

5 ~~(b) The amounts at which competitive bidding and separate~~
6 ~~bids are required under this act shall be adjusted every five~~
7 ~~years. The positive percentage change, as determined in~~
8 ~~accordance with subsection (a), shall be multiplied by the~~
9 ~~applicable amount for the current five year period and the~~
10 ~~product thereof shall be added to the applicable amount for the~~
11 ~~current five year period, with the result rounded to the nearest~~
12 ~~multiple of one hundred.~~

13 ~~(c) The determination required under subsection (a) and the~~
14 ~~calculation of the adjustments required under subsection (b)~~
15 ~~shall be made in the period between October 1 and November 15 of~~
16 ~~the year following the effective date of this section, and~~
17 ~~between October 1 and November 15 of each successive year.~~

18 ~~(d) The adjusted amounts obtained in accordance with~~
19 ~~subsection (b) shall become effective January 1 for the five~~
20 ~~year period following the year in which the determination~~
21 ~~required under subsection (a) is made.~~

22 ~~(e) The Department of Labor and Industry shall give notice~~
23 ~~in the Pennsylvania Bulletin prior to January 1 of each calendar~~
24 ~~year in which the percentage change determined in accordance~~
25 ~~with subsection (a) and the amounts, whether adjusted or~~
26 ~~unadjusted in accordance with subsection (b), at which~~
27 ~~competitive bidding, advertising and separate bids are required~~
28 ~~under this act for the five year period beginning the first day~~
29 ~~of January after publication of the notice. (A) ADJUSTMENTS TO~~
30 ~~THE BASE AMOUNTS SPECIFIED UNDER SECTIONS 1901, 1902 AND 1909~~



1 SHALL BE MADE AS FOLLOWS:

2 (1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE THE
3 PERCENTAGE CHANGE IN THE ALL ITEMS CONSUMER PRICE INDEX FOR ALL
4 URBAN CONSUMERS (CPI-U) FOR THE UNITED STATES CITY AVERAGE AS
5 PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF
6 LABOR STATISTICS FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER
7 30, 2012, AND FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD
8 THEREAFTER.

9 (2) IF THE DEPARTMENT DETERMINES THAT THERE IS NO POSITIVE
10 PERCENTAGE CHANGE, THEN NO ADJUSTMENT TO THE BASE AMOUNTS SHALL
11 OCCUR FOR THE RELEVANT TIME PERIOD PROVIDED FOR IN THIS SECTION.

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

18 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO
19 THE NEAREST ONE THOUSAND DOLLARS (\$1,000), TO DETERMINE THE
20 FINAL ADJUSTED BASE AMOUNTS FOR PURPOSES OF SECTIONS 1901 AND
21 1902.

22 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE
23 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY
24 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY
25 THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS
26 SHALL BE ADDED TO THE PRELIMINARY ADJUSTED AMOUNT OF THE PRIOR
27 YEAR TO CALCULATE THE PRELIMINARY ADJUSTED AMOUNTS FOR THE
28 CURRENT YEAR. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST
29 ONE THOUSAND DOLLARS (\$1,000) TO DETERMINE THE NEW FINAL
30 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SECTIONS 1901 AND 1902.

1 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS
2 SECTION SHALL BE MADE IN THE PERIOD BETWEEN OCTOBER 1 AND
3 NOVEMBER 15 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS
4 SUBSECTION, AND ANNUALLY BETWEEN OCTOBER 1 AND NOVEMBER 15 OF
5 EACH YEAR THEREAFTER.

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

10 (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA
11 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL
12 PERCENTAGE CHANGE DETERMINED UNDER PARAGRAPH (1) AND THE
13 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER
14 PARAGRAPHS (3) AND (4) AT WHICH COMPETITIVE BIDDING IS REQUIRED
15 UNDER SECTION 1901, ADVERTISING IS REQUIRED UNDER SECTION 1902
16 OR SEPARATE BIDS ARE REQUIRED UNDER SECTION 1909 FOR THE
17 CALENDAR YEAR BEGINNING THE FIRST DAY OF JANUARY AFTER
18 PUBLICATION OF THE NOTICE. THE NOTICE SHALL INCLUDE A WRITTEN
19 AND ILLUSTRATIVE EXPLANATION OF THE CALCULATIONS PERFORMED BY
20 THE DEPARTMENT IN ESTABLISHING THE UNADJUSTED OR FINAL ADJUSTED
21 BASE AMOUNTS UNDER THIS SECTION FOR THE ENSUING CALENDAR YEAR.

22 (8) NO ADJUSTMENT TO THE BASE AMOUNTS SPECIFIED UNDER
23 SECTIONS 1901, 1902 AND 1909 SHALL EXCEED THREE PERCENT OF THE
24 MOST RECENTLY ADJUSTED BASE AMOUNT.

25 Section 4. Section 1909 of the act, amended March 25, 1988
26 (P.L.289, No.32), is amended to read:

27 Section 1909. Separate Bids for Plumbing, Heating,
28 Ventilating and Electrical Work, Elevators and Moving Stairs.--
29 In the preparation of specifications for the erection,
30 construction, and alteration of any public building, when the

1 entire cost of such work shall exceed [ten] ~~twenty five~~ ←
2 [thousand] THE BASE AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED ←
3 dollars, subject to adjustment under section one thousand nine
4 hundred and three point one of this act, the architect,
5 engineer, or other person preparing such specifications, shall
6 prepare only the following separate specifications; (1)
7 plumbing, (2) heating, (3) ventilating, (4) electrical work, (5)
8 elevators and moving stairs, and (6) one complete set of
9 specifications for all the other work to be done in such
10 erection, construction and alteration. The person or persons
11 authorized to enter into contracts for the erection,
12 construction, or alteration of such public buildings shall
13 receive separate bids upon each of the said branches of work,
14 and award the contract for the same to the lowest responsible
15 bidder for each of said branches, including the balance of the
16 work in addition to the plumbing, heating, ventilating and
17 electrical work and elevators and moving stairs. Where it is
18 desired to install an air conditioning unit, the heating and
19 ventilating so involved may be regarded as one branch of work
20 having only one set of specifications, and bids may be received
21 and a contract awarded thereon as hereinbefore provided.

22 Section 5. This act shall apply to contracts and purchases
23 advertised on or after January 1 of the year following the
24 effective date of this section.

25 Section 6. This act shall take effect immediately.