

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

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 26, 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
18 purchases not in excess of [ten] the base amount of eighteen

1 thousand five hundred dollars, subject to adjustment under
2 section one thousand nine hundred and three point one of this
3 act, shall be by note or memorandum in writing, signed by the
4 officer or employe making the purchase or contract.

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

18 * * *

19 (d) The contracts or purchases made by council involving an
20 expenditure [of over ten] in excess of the base amount of
21 eighteen thousand five hundred dollars, subject to adjustment
22 under section one thousand nine hundred and three point one of
23 this act, which shall not require advertising or bidding, as
24 hereinbefore provided are as follows:

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

30 (2) Those made for improvements, repairs and maintenance of

1 any kind made or provided by any city through its own employes:
2 Provided, however, That this shall not apply to construction
3 materials used in a street improvement.

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

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

19 (5) Those involving personal or professional services.

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

23 * * *

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

26 Section 1902. Evasion of Advertising Requirements.--No
27 member or members of council shall evade the provisions of the
28 preceding section as to advertising for bids by purchasing or
29 contracting for services and personal properties piecemeal for
30 the purpose of obtaining prices under [ten] the base amount of

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

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

25 Section 1903.1. Adjustments to Base Amount Based on Consumer
26 Price Index for All Urban Consumers.--

27 (a) Adjustments to the base amounts specified under sections
28 1901, 1902 and 1909 shall be made as follows:

29 (1) The Department of Labor and Industry shall determine the
30 percentage change in the All Items Consumer Price Index for All

1 Urban Consumers (CPI-U) for the United States City Average as
2 published by the United States Department of Labor, Bureau of
3 Labor Statistics for the twelve-month period ending September
4 30, 2012, and for each successive twelve-month period
5 thereafter.

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

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 ~~thousand dollars (\$1,000)~~ HUNDRED DOLLARS
17 (\$100), to determine the final adjusted base amounts for
18 purposes of sections 1901 and 1902.

19 (4) In each successive year in which there is a positive
20 percentage change in the CPI-U for the United States City
21 Average, the positive percentage change shall be multiplied by
22 the most recent preliminary adjusted amounts and the products
23 shall be added to the preliminary adjusted amount of the prior
24 year to calculate the preliminary adjusted amounts for the
25 current year. The sums thereof shall be rounded to the nearest
26 one ~~thousand dollars (\$1,000)~~ HUNDRED DOLLARS (\$100) to
27 determine the new final adjusted base amounts for purposes of
28 sections 1901 and 1902.

29 (5) The determinations and adjustments required under this
30 section shall be made in the period between October 1 and

1 November 15 of the year following the effective date of this
2 subsection, and annually between October 1 and November 15 of
3 each year thereafter.

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

8 (7) The department shall publish notice in the Pennsylvania
9 Bulletin prior to January 1 of each calendar year of the annual
10 percentage change determined under paragraph (1) and the
11 unadjusted or final adjusted base amounts determined under
12 paragraphs (3) and (4) at which competitive bidding is required
13 under section 1901, advertising is required under section 1902
14 or separate bids are required under section 1909 for the
15 calendar year beginning the first day of January after
16 publication of the notice. The notice shall include a written
17 and illustrative explanation of the calculations performed by
18 the department in establishing the unadjusted or final adjusted
19 base amounts under this section for the ensuing calendar year.

20 ~~(8) No adjustment to the base amounts specified under~~ ←
21 ~~sections 1901, 1902 and 1909 shall exceed three percent of the~~
22 ~~most recently adjusted base amount.~~

23 (8) THE ANNUAL INCREASE IN THE PRELIMINARY ADJUSTED BASE ←
24 AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL NOT EXCEED
25 THREE PERCENT.

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

28 Section 1909. Separate Bids for Plumbing, Heating,
29 Ventilating and Electrical Work, Elevators and Moving Stairs.--
30 In the preparation of specifications for the erection,

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

23 Section 5. 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 6. This act shall take effect immediately.