

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 283 Session of 2011

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

REFERRED TO LOCAL GOVERNMENT, JANUARY 26, 2011

AN ACT

1 Amending the act of May 1, 1933 (P.L.103, No.69), entitled, as  
 2 reenacted and amended, "An act concerning townships of the  
 3 second class; and amending, revising, consolidating and  
 4 changing the law relating thereto," further providing for  
 5 competitive bidding of contracts.

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

8 Section 1. Section 3102(a), (b) and (h) of the act of May 1,  
 9 1933 (P.L.103, No.69), known as The Second Class Township Code,  
 10 reenacted and amended November 9, 1995 (P.L.350, No.60) and  
 11 amended December 18, 1996 (P.L.1142, No.172), December 19, 1996  
 12 (P.L.1412, No.181) and October 11, 2000 (P.L.535, No.70), are  
 13 amended and the section is amended by adding a subsection to  
 14 read:

15 Section 3102. Letting Contracts.--(a) All contracts or  
 16 purchases in excess of the required advertising amount of [ten  
 17 thousand dollars (\$10,000)] twenty-five thousand dollars  
 18 (\$25,000), subject to adjustment under subsection (b.1), except

1 those specifically excluded, shall not be made except with and  
2 from the lowest responsible bidder after due notice in one  
3 newspaper of general circulation in the township. The notice for  
4 bids shall be published at least two times at intervals of not  
5 less than three days in daily newspapers or once a week for two  
6 successive weeks in weekly newspapers. The first advertisement  
7 shall be published not more than forty-five days, and the second  
8 advertisement not less than ten days, before the date set for  
9 the opening of bids. Notice of proposed contracts or purchases  
10 shall also be posted where the board of supervisors normally  
11 meets or in a conspicuous place within the township. Any  
12 published notice for bids shall contain full plans and  
13 specifications, or refer to the places where copies thereof can  
14 be obtained, state the amount of the performance bond determined  
15 under subsection (g) and give the date, time and place of a  
16 meeting at which an individual or committee appointed by the  
17 board of supervisors or the board of supervisors will open and  
18 read the bids.

19 (b) Written or telephonic price quotations from at least  
20 three qualified and responsible contractors shall be requested  
21 for all contracts that exceed [four thousand dollars (\$4,000)]  
22 seven thousand dollars (\$7,000), subject to adjustment under  
23 subsection (b.1), but are less than the amount requiring  
24 advertisement and competitive bidding, or, in lieu of price  
25 quotations, a memorandum shall be kept on file showing that  
26 fewer than three qualified contractors exist in the market area  
27 within which it is practicable to obtain quotations. A written  
28 record of telephonic price quotations shall be made and shall  
29 contain at least the date of the quotation, the name of the  
30 contractor and the contractor's representative, the

1 construction, reconstruction, repair, maintenance or work which  
2 was the subject of the quotation and the price. Written price  
3 quotations, written records of telephonic price quotations and  
4 memoranda shall be retained for a period of three years.

5 (b.1) Adjustments shall be made as follows:

6 (1) Every five years, beginning with the year in which this  
7 subsection becomes applicable to contracts and purchases, the  
8 Department of Labor and Industry shall calculate the average  
9 percentage change in the Consumer Price Index for All Urban  
10 Consumers (CPI-U) for the United States city average for all  
11 items as published by the United States Department of Labor,  
12 Bureau of Labor Statistics, for the preceding five-year period.

13 (2) The amount at which competitive bidding is required  
14 under subsection (a) and the amount at which written or  
15 telephonic price quotations are required under subsection (b)  
16 shall be adjusted every five years as follows:

17 (i) In the case of competitive bidding, the positive  
18 percentage change, as determined in accordance with paragraph  
19 (1), shall be multiplied by the amount applicable under  
20 subsection (a) for the current five-year period and the product  
21 thereof shall be added to the amount applicable under subsection  
22 (a) for the current five-year period, with the result rounded to  
23 the nearest multiple of one hundred dollars (\$100).

24 (ii) In the case of written or telephonic price quotations,  
25 the positive percentage change, as determined in accordance with  
26 paragraph (1), shall be multiplied by the amount applicable  
27 under subsection (b) for the current five-year period and the  
28 product thereof shall be added to the amount applicable under  
29 subsection (b) for the current five-year period, with the result  
30 rounded to the nearest multiple of one hundred dollars (\$100).

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

6     (4) The adjusted amounts obtained in accordance with  
7 paragraph (2) shall become effective January 1 for the five-year  
8 period following the year in which the determination required  
9 under paragraph (1) is made.

10     (5) The department shall give notice in the Pennsylvania  
11 Bulletin prior to January 1 of each calendar year in which the  
12 percentage change determined in accordance with paragraph (1)  
13 and the amounts, whether adjusted or unadjusted in accordance  
14 with paragraph (2), at which competitive bidding is required  
15 under subsection (a) and written or telephonic price quotations  
16 are required under subsection (b) for the five-year period  
17 beginning the first day of January after publication of the  
18 notice.

19     \* \* \*

20     (h) The contracts or purchases made by the board of  
21 supervisors involving payments in excess of the required  
22 advertising amount, which do not require advertising, bidding or  
23 price quotations are as follows:

24     (1) Those made for emergency, or routine maintenance,  
25 repairs or replacements for water, electric light and other  
26 public works of the township if they do not constitute new  
27 additions, extensions or enlargements of existing facilities and  
28 equipment.

29     (2) Those made for improvements, repairs or maintenance of  
30 any kind made or provided by any township through its own

1 employes. All contracts or purchases of materials used for  
2 improvement, maintenance or construction [in excess of four  
3 thousand dollars (\$4,000) but less than the required advertising  
4 amount] are subject to the provisions contained in subsection  
5 (a) and (b)[, and those contracts or purchases in excess of the  
6 required advertising amount are subject to the advertising  
7 requirements contained in subsection (a)].

8 (3) Those involving any policies of insurance or surety  
9 company bonds, those made for public utility service, those made  
10 for electricity, natural gas or telecommunications service  
11 either directly or with an association authorized under Article  
12 XIV in which the township is a member and those made with  
13 another municipal corporation, county, school district or  
14 municipality authority or Federal or State Government, including  
15 the sale, leasing or loan of any supplies or materials by the  
16 Federal or State Government or their agencies.

17 (4) Those involving personal or professional services.

18 (5) Those made for materials and supplies or equipment  
19 rental under emergency conditions under 35 Pa.C.S. Pt. V  
20 (relating to emergency management services).

21 (6) Those contracts involving equipment rental with  
22 operators if more than fifty percent of the total labor  
23 personnel hours required for the completion of the contract is  
24 supplied by the township through its own employes.

25 (7) Those contracts for the purchase of repair parts or  
26 materials for use in existing township equipment or facilities  
27 if the item or material to be purchased is the sole item of its  
28 kind on the market or is manufactured as a replacement for the  
29 original item or equipment being repaired.

30 (8) Those for used equipment, articles, apparatus,

1 appliances, vehicles or parts thereof being purchased from a  
2 public utility.

3 (9) Those where particular types, models or pieces of  
4 equipment, articles, apparatus, appliances, vehicles or parts  
5 thereof which are patented and manufactured products.

6 \* \* \*

7 Section 2. The amendment or addition of section 3102(a),  
8 (b), (b.1) and (h) of the act shall apply to contracts and  
9 purchases advertised after December 31 of the year in which this  
10 section takes effect.

11 Section 3. This act shall take effect immediately.