

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, PICCOLA, WARD AND BROWNE,
JANUARY 26, 2011

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
SEPTEMBER 20, 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 BASE amount of ←
17 [ten thousand dollars (\$10,000)] ~~twenty five thousand dollars~~ ←

1 ~~(\$25,000)~~ EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500), ←
2 subject to adjustment under subsection (b.1), except those
3 specifically excluded, shall not be made except with and from
4 the lowest responsible bidder after due notice in one newspaper
5 of general circulation in the township. The notice for bids
6 shall be published at least two times at intervals of not less
7 than three days in daily newspapers or once a week for two
8 successive weeks in weekly newspapers. The first advertisement
9 shall be published not more than forty-five days, and the second
10 advertisement not less than ten days, before the date set for
11 the opening of bids. Notice of proposed contracts or purchases
12 shall also be posted where the board of supervisors normally
13 meets or in a conspicuous place within the township. Any
14 published notice for bids shall contain full plans and
15 specifications, or refer to the places where copies thereof can
16 be obtained, state the amount of the performance bond determined
17 under subsection (g) and give the date, time and place of a
18 meeting at which an individual or committee appointed by the
19 board of supervisors or the board of supervisors will open and
20 read the bids.

21 (b) Written or telephonic price quotations from at least
22 three qualified and responsible contractors shall be requested
23 for all contracts [that exceed ~~four thousand dollars (\$4,000)~~ ←
24 ~~seven thousand dollars (\$7,000)~~ IN EXCESS OF THE BASE AMOUNT OF ←
25 TEN THOUSAND DOLLARS (\$10,000), subject to adjustment under
26 subsection (b.1), but are less than the amount requiring
27 advertisement and competitive bidding, or, in lieu of price
28 quotations, a memorandum shall be kept on file showing that
29 fewer than three qualified contractors exist in the market area
30 within which it is practicable to obtain quotations. A written

1 record of telephonic price quotations shall be made and shall
2 contain at least the date of the quotation, the name of the
3 contractor and the contractor's representative, the
4 construction, reconstruction, repair, maintenance or work which
5 was the subject of the quotation and the price. Written price
6 quotations, written records of telephonic price quotations and
7 memoranda shall be retained for a period of three years.

8 ~~(b.1) Adjustments shall be made as follows:~~ ←

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

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

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

27 ~~(ii) In the case of written or telephonic price quotations,~~
28 ~~the positive percentage change, as determined in accordance with~~
29 ~~paragraph (1), shall be multiplied by the amount applicable~~
30 ~~under subsection (b) for the current five year period and the~~

1 ~~product thereof shall be added to the amount applicable under~~
2 ~~subsection (b) for the current five year period, with the result~~
3 ~~rounded to the nearest multiple of one hundred dollars (\$100).~~

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

9 ~~(4) The adjusted amounts obtained in accordance with~~
10 ~~paragraph (2) shall become effective January 1 for the five year~~
11 ~~period following the year in which the determination required~~
12 ~~under paragraph (1) is made.~~

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

22 (B.1) ADJUSTMENTS TO THE BASE AMOUNTS SPECIFIED UNDER
23 SUBSECTIONS (A) AND (B) SHALL BE MADE AS FOLLOWS:

24 (1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE THE
25 PERCENTAGE CHANGE IN THE ALL ITEMS CONSUMER PRICE INDEX FOR ALL
26 URBAN CONSUMERS (CPI-U) FOR THE UNITED STATES CITY AVERAGE AS
27 PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF
28 LABOR STATISTICS FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER
29 30, 2012, AND FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD
30 THEREAFTER.



1 (2) IF THE DEPARTMENT DETERMINES THAT THERE IS NO POSITIVE
2 PERCENTAGE CHANGE, THEN NO ADJUSTMENT TO THE BASE AMOUNTS SHALL
3 OCCUR FOR THE RELEVANT TIME PERIOD PROVIDED FOR IN THIS
4 SUBSECTION.

5 (3) (I) IF THE DEPARTMENT DETERMINES THAT THERE IS A
6 POSITIVE PERCENTAGE CHANGE IN THE FIRST YEAR THAT THE
7 DETERMINATION IS MADE UNDER PARAGRAPH (1), THE POSITIVE
8 PERCENTAGE CHANGE SHALL BE MULTIPLIED BY EACH BASE AMOUNT AND
9 THE PRODUCTS SHALL BE ADDED TO THE BASE AMOUNTS, RESPECTIVELY,
10 AND THE SUMS SHALL BE PRELIMINARY ADJUSTED AMOUNTS.

11 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO
12 THE NEAREST ONE THOUSAND DOLLARS (\$1,000), TO DETERMINE THE
13 FINAL ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND
14 (B).

15 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE
16 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY
17 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY
18 THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS
19 SHALL BE ADDED TO THE PRELIMINARY ADJUSTED AMOUNT OF THE PRIOR
20 YEAR TO CALCULATE THE PRELIMINARY ADJUSTED AMOUNTS FOR THE
21 CURRENT YEAR. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST
22 ONE THOUSAND DOLLARS (\$1,000) TO DETERMINE THE NEW FINAL
23 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (B).

24 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS
25 SUBSECTION SHALL BE MADE IN THE PERIOD BETWEEN OCTOBER 1 AND
26 NOVEMBER 15 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS
27 SUBSECTION, AND ANNUALLY BETWEEN OCTOBER 1 AND NOVEMBER 15 OF
28 EACH YEAR THEREAFTER.

29 (6) THE FINAL ADJUSTED BASE AMOUNTS AND NEW FINAL ADJUSTED
30 BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL BECOME

1 EFFECTIVE JANUARY 1 FOR THE CALENDAR YEAR FOLLOWING THE YEAR IN
2 WHICH THE DETERMINATION REQUIRED UNDER PARAGRAPH (1) IS MADE.

3 (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA
4 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL
5 PERCENTAGE CHANGE DETERMINED UNDER PARAGRAPH (1) AND THE
6 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER
7 PARAGRAPHS (3) AND (4) AT WHICH COMPETITIVE BIDDING IS REQUIRED
8 UNDER SUBSECTION (A) AND WRITTEN OR TELEPHONIC PRICE QUOTATIONS
9 ARE REQUIRED UNDER SUBSECTION (B), RESPECTIVELY, FOR THE
10 CALENDAR YEAR BEGINNING THE FIRST DAY OF JANUARY AFTER
11 PUBLICATION OF THE NOTICE. THE NOTICE SHALL INCLUDE A WRITTEN
12 AND ILLUSTRATIVE EXPLANATION OF THE CALCULATIONS PERFORMED BY
13 THE DEPARTMENT IN ESTABLISHING THE UNADJUSTED OR FINAL ADJUSTED
14 BASE AMOUNTS UNDER THIS SUBSECTION FOR THE ENSUING CALENDAR
15 YEAR.

16 (8) NO ADJUSTMENT TO THE BASE AMOUNTS SPECIFIED UNDER
17 SUBSECTIONS (A) AND (B) SHALL EXCEED THREE PERCENT OF THE MOST
18 RECENTLY ADJUSTED BASE AMOUNT.

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~~ THIS ACT SHALL APPLY TO CONTRACTS AND ←
11 PURCHASES ADVERTISED ON OR AFTER JANUARY 1 OF THE YEAR FOLLOWING
12 THE EFFECTIVE DATE OF THIS SECTION.

13 Section 3. This act shall take effect immediately.