
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 284 Session of
2011

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

REFERRED TO LOCAL GOVERNMENT, JANUARY 26, 2011

AN ACT

1 Amending the act of June 24, 1931 (P.L.1206, No.331), entitled
2 "An act concerning townships of the first class; amending,
3 revising, consolidating, and changing the law relating
4 thereto," further providing for contracts and acquisition of
5 property and for general regulations concerning contracts.

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

8 Section 1. Section 1802(a) and (a.1) of the act of June 24,
9 1931 (P.L.1206, No.331), known as The First Class Township Code,
10 reenacted and amended May 27, 1949 (P.L.1955, No.569) and
11 amended or added July 10, 1990 (P.L.389, No.92) and December 20,
12 1996 (P.L.1495, No.192), are amended and the section is amended
13 by adding a subsection to read:

14 Section 1802. General Regulations Concerning Contracts.--(a)
15 All contracts or purchases made by any township, involving the
16 expenditure of over [ten thousand dollars] twenty-five thousand
17 dollars subject to adjustment under subsection (a.2), except
18 those hereinafter mentioned, shall not be made except with and

1 from the lowest responsible bidder, shall be in writing, and
2 shall be made only after notice by the secretary, published, in
3 one newspaper of general circulation, published or circulating
4 in the county in which the township is situated, at least two
5 times at intervals of not less than three days where daily
6 newspapers of general circulation are employed for such
7 publication, or in case weekly newspapers are employed then the
8 notice shall be published once a week for two successive weeks.
9 The first advertisement shall be published not more than forty-
10 five days and the second advertisement not less than ten days
11 prior to the date fixed for the opening of bids. Advertisements
12 for contracts or purchases shall also be posted in a conspicuous
13 place within the township. Advertisements for contracts or
14 purchases shall contain the date, time and location for opening
15 of bids and shall state the amount of the performance bond
16 determined under subsection (c). All plans and specifications
17 shall be on file at least ten days in advance of opening bids.
18 The amount of the contract shall in all cases, whether of
19 straight sale price, conditional sale, bailment lease, or
20 otherwise, be the entire amount which the township pays to the
21 successful bidder or his assigns in order to obtain the services
22 or property, or both, and shall not be construed to mean only
23 the amount which is paid to acquire title or to receive any
24 other particular benefit or benefits of the whole bargain.

25 (a.1) Written or telephonic price quotations from at least
26 three qualified and responsible contractors shall be requested
27 for all contracts that exceed [four thousand dollars] seven
28 thousand dollars subject to adjustment under subsection (a.2)
29 but are less than the amount requiring advertisement and
30 competitive bidding or, in lieu of price quotations, a

1 memorandum shall be kept on file showing that fewer than three
2 qualified contractors exist in the market area within which it
3 is practicable to obtain quotations. A written record of
4 telephonic price quotations shall be made and shall contain at
5 least the date of the quotation, the name of the contractor and
6 the contractor's representative, the construction,
7 reconstruction, repair, maintenance or work which was the
8 subject of the quotation and the price. Written price
9 quotations, written records of telephonic price quotations and
10 memoranda shall be retained for a period of three years.

11 (a.2) (1) Every five years, beginning with the year in
12 which this subsection becomes applicable to contracts and
13 purchases, the Department of Labor and Industry shall calculate
14 the average percentage change in the Consumer Price Index for
15 All Urban Consumers (CPI-U) for the United States city average
16 for all items as published by the United States Department of
17 Labor, Bureau of Labor Statistics, for the preceding five-year
18 period.

19 (2) The amount at which competitive bidding is required
20 under subsection (a) and the amount at which written or
21 telephonic price quotations are required under subsection (a.1)
22 shall be adjusted every five years as follows:

23 (i) In the case of competitive bidding, the positive
24 percentage change, as determined in accordance with clause (1),
25 shall be multiplied by the amount applicable under subsection
26 (a) for the current five-year period and the product thereof
27 shall be added to the amount applicable under subsection (a) for
28 the current five-year period, with the result rounded to the
29 nearest multiple of one hundred dollars.

30 (ii) In the case of written or telephonic price quotations,

1 the positive percentage change, as determined in accordance with
2 clause (1), shall be multiplied by the amount applicable under
3 subsection (a.1) for the current five-year period and the
4 product thereof shall be added to the amount applicable under
5 subsection (a.1) for the current five-year period, with the
6 result rounded to the nearest multiple of one hundred dollars.

7 (3) The determination required under clause (1) and the
8 calculation of the adjustments required under clause (2) shall
9 be made in the period between October 1 and November 15 of the
10 year following the effective date of this subsection, and
11 between October 1 and November 15 of each successive year.

12 (4) The adjusted amounts obtained in accordance with clause
13 (2) shall become effective January 1 for the five-year period
14 following the year in which the determination required under
15 clause (1) is made.

16 (5) The Department of Labor and Industry shall give notice
17 in the Pennsylvania Bulletin prior to January 1 of each calendar
18 year in which the annual percentage change determined in
19 accordance with clause (1) and the amounts, whether adjusted or
20 unadjusted in accordance with clause (2), at which competitive
21 bidding is required under subsection (a) and written or
22 telephonic price quotations are required under subsection (a.1)
23 for the five-year period beginning the first day of January
24 after publication of the notice.

25 * * *

26 Section 2. Section 1802.1 of the act, amended July 10, 1990
27 (P.L.389, No.92), is amended to read:

28 Section 1802.1. Evasion of Advertising Requirements.--(a)
29 No commissioner or commissioners shall evade the provisions of
30 section one thousand eight hundred two as to advertising for

1 bids, by purchasing or contracting for services and personal
2 properties piecemeal for the purpose of obtaining prices under
3 [ten thousand dollars] twenty-five thousand dollars subject to
4 adjustment under section 1802(a.2) upon transactions, which
5 transactions should, in the exercise of reasonable discretion
6 and prudence, be conducted as one transaction amounting to more
7 than [ten thousand dollars] twenty-five thousand dollars subject
8 to adjustment under section 1802(a.2). This provision is
9 intended to make unlawful the evading of advertising
10 requirements by making a series of purchases or contracts each
11 for less than the advertising requirement price, or by making
12 several simultaneous purchases or contracts, each below said
13 price, when in either case, the transactions involved should
14 have been made as one transaction for one price. Any
15 commissioners who so vote in violation of this provision, and
16 who know that the transaction upon which they so vote is or
17 ought to be a part of a larger transaction, and that it is being
18 divided in order to evade the requirements as to advertising for
19 bids, shall be jointly and severally subject to surcharge for
20 ten per centum of the full amount of the contract or purchase.
21 Whenever it shall appear that a commissioner may have voted in
22 violation of this section, but the purchase or contract on which
23 he so voted was not approved by the board of commissioners, this
24 section shall be inapplicable.

25 (b) Any commissioner who votes to unlawfully evade the
26 provisions of section one thousand eight hundred two and who
27 knows that the transaction upon which he so votes is or ought to
28 be a part of a larger transaction and that it is being divided
29 in order to evade the requirements as to advertising for bids
30 commits a misdemeanor of the third degree for each contract

1 entered into as a direct result of that vote. This penalty shall
2 be in addition to any surcharge which may be assessed pursuant
3 to subsection (a).

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

7 Section 4. This act shall take effect immediately.