

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, 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 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 THE BASE AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED dollars ←

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

27 (a.1) Written or telephonic price quotations from at least  
28 three qualified and responsible contractors shall be requested  
29 for all contracts [that exceed ~~four thousand dollars~~ seven  
30 thousand dollars IN EXCESS OF THE BASE AMOUNT OF TEN THOUSAND





1 DOLLARS subject to adjustment under subsection (a.2) but [are]  
 2 less than the amount requiring advertisement and competitive  
 3 bidding or, in lieu of price quotations, a memorandum shall be  
 4 kept on file showing that fewer than three qualified contractors  
 5 exist in the market area within which it is practicable to  
 6 obtain quotations. A written record of telephonic price  
 7 quotations shall be made and shall contain at least the date of  
 8 the quotation, the name of the contractor and the contractor's  
 9 representative, the construction, reconstruction, repair,  
 10 maintenance or work which was the subject of the quotation and  
 11 the price. Written price quotations, written records of  
 12 telephonic price quotations and memoranda shall be retained for  
 13 a period of three years.



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

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

26 ~~(i) In the case of competitive bidding, the positive~~  
 27 ~~percentage change, as determined in accordance with clause (1),~~  
 28 ~~shall be multiplied by the amount applicable under subsection~~  
 29 ~~(a) for the current five year period and the product thereof~~  
 30 ~~shall be added to the amount applicable under subsection (a) for~~

1 ~~the current five year period, with the result rounded to the~~  
2 ~~nearest multiple of one hundred dollars.~~

3 ~~(ii) In the case of written or telephonic price quotations,~~  
4 ~~the positive percentage change, as determined in accordance with~~  
5 ~~clause (1), shall be multiplied by the amount applicable under~~  
6 ~~subsection (a.1) for the current five year period and the~~  
7 ~~product thereof shall be added to the amount applicable under~~  
8 ~~subsection (a.1) for the current five year period, with the~~  
9 ~~result rounded to the nearest multiple of one hundred dollars.~~

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

15 ~~(4) The adjusted amounts obtained in accordance with clause~~  
16 ~~(2) shall become effective January 1 for the five year period~~  
17 ~~following the year in which the determination required under~~  
18 ~~clause (1) is made.~~

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

28 (A.2) ADJUSTMENTS TO THE BASE AMOUNTS SPECIFIED UNDER  
29 SUBSECTION (A) SHALL BE MADE AS FOLLOWS:

30 (1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE THE



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

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

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

17 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO  
18 THE NEAREST ONE THOUSAND DOLLARS, TO DETERMINE THE FINAL  
19 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTION (A).

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

29 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS  
30 SUBSECTION 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 SUBSECTION (A) FOR THE CALENDAR YEAR BEGINNING THE FIRST  
14 DAY OF JANUARY AFTER PUBLICATION OF THE NOTICE. THE NOTICE SHALL  
15 INCLUDE A WRITTEN AND ILLUSTRATIVE EXPLANATION OF THE  
16 CALCULATIONS PERFORMED BY THE DEPARTMENT IN ESTABLISHING THE  
17 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS UNDER THIS SUBSECTION  
18 FOR THE ENSUING CALENDAR YEAR.

19 (8) NO ADJUSTMENT TO THE BASE AMOUNTS SPECIFIED UNDER  
20 SUBSECTION (A) SHALL EXCEED THREE PERCENT OF THE MOST RECENTLY  
21 ADJUSTED BASE AMOUNT.

22 \* \* \*

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

25 Section 1802.1. Evasion of Advertising Requirements.--(a)  
26 No commissioner or commissioners shall evade the provisions of  
27 section one thousand eight hundred two as to advertising for  
28 bids, by purchasing or contracting for services and personal  
29 properties piecemeal for the purpose of obtaining prices under  
30 [ten thousand dollars] ~~twenty five thousand~~ EIGHTEEN THOUSAND



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

23 (b) Any commissioner who votes to unlawfully evade the  
24 provisions of section one thousand eight hundred two and who  
25 knows that the transaction upon which he so votes is or ought to  
26 be a part of a larger transaction and that it is being divided  
27 in order to evade the requirements as to advertising for bids  
28 commits a misdemeanor of the third degree for each contract  
29 entered into as a direct result of that vote. This penalty shall  
30 be in addition to any surcharge which may be assessed pursuant

1 to subsection (a).

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

5 Section 4. This act shall take effect immediately.