

## 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

---

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 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] the base amount of  
17 eighteen thousand five hundred dollars subject to adjustment  
18 under subsection (a.2), except those hereinafter mentioned,

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

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

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

12 (a.2) Adjustments to the base amounts specified under  
13 subsection (a) shall be made as follows:

14 (1) The Department of Labor and Industry shall determine the  
15 percentage change in the All Items Consumer Price Index for All  
16 Urban Consumers (CPI-U) for the United States City Average as  
17 published by the United States Department of Labor, Bureau of  
18 Labor Statistics for the twelve-month period ending September  
19 30, 2012, and for each successive twelve-month period  
20 thereafter.

21 (2) If the department determines that there is no positive  
22 percentage change, then no adjustment to the base amounts shall  
23 occur for the relevant time period provided for in this  
24 subsection.

25 (3) (i) If the department determines that there is a  
26 positive percentage change in the first year that the  
27 determination is made under paragraph (1), the positive  
28 percentage change shall be multiplied by each base amount and  
29 the products shall be added to the base amounts, respectively,  
30 and the sums shall be preliminary adjusted amounts.

1 (ii) The preliminary adjusted amounts shall be rounded to  
2 the nearest one thousand HUNDRED dollars, to determine the final ←  
3 adjusted base amounts for purposes of subsection (a).

4 (4) In each successive year in which there is a positive  
5 percentage change in the CPI-U for the United States City  
6 Average, the positive percentage change shall be multiplied by  
7 the most recent preliminary adjusted amounts and the products  
8 shall be added to the preliminary adjusted amount of the prior  
9 year to calculate the preliminary adjusted amounts for the  
10 current year. The sums thereof shall be rounded to the nearest  
11 one thousand HUNDRED dollars to determine the new final adjusted ←  
12 base amounts for purposes of subsection (a).

13 (5) The determinations and adjustments required under this  
14 subsection shall be made in the period between October 1 and  
15 November 15 of the year following the effective date of this  
16 subsection, and annually between October 1 and November 15 of  
17 each year thereafter.

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

22 (7) The department shall publish notice in the Pennsylvania  
23 Bulletin prior to January 1 of each calendar year of the annual  
24 percentage change determined under paragraph (1) and the  
25 unadjusted or final adjusted base amounts determined under  
26 paragraphs (3) and (4) at which competitive bidding is required  
27 under subsection (a) for the calendar year beginning the first  
28 day of January after publication of the notice. The notice shall  
29 include a written and illustrative explanation of the  
30 calculations performed by the department in establishing the

1 unadjusted or final adjusted base amounts under this subsection  
2 for the ensuing calendar year.

3 ~~(8) No adjustment to the base amounts specified under~~ ←  
4 ~~subsection (a) shall exceed three percent of the most recently~~  
5 ~~adjusted base amount~~ THE ANNUAL INCREASE IN THE PRELIMINARY ←  
6 ADJUSTED BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4)  
7 SHALL NOT EXCEED THREE PER CENTUM.

8 \* \* \*

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

11 Section 1802.1. Evasion of Advertising Requirements.--(a)  
12 No commissioner or commissioners shall evade the provisions of  
13 section one thousand eight hundred two as to advertising for  
14 bids, by purchasing or contracting for services and personal  
15 properties piecemeal for the purpose of obtaining prices under  
16 [ten thousand dollars] eighteen thousand five hundred dollars  
17 subject to adjustment under section 1802(a.2) upon transactions,  
18 which transactions should, in the exercise of reasonable  
19 discretion and prudence, be conducted as one transaction  
20 amounting to more than [ten thousand dollars] eighteen thousand  
21 five hundred dollars subject to adjustment under section  
22 1802(a.2). This provision is intended to make unlawful the  
23 evading of advertising requirements by making a series of  
24 purchases or contracts each for less than the advertising  
25 requirement price, or by making several simultaneous purchases  
26 or contracts, each below said price, when in either case, the  
27 transactions involved should have been made as one transaction  
28 for one price. Any commissioners who so vote in violation of  
29 this provision, and who know that the transaction upon which  
30 they so vote is or ought to be a part of a larger transaction,

1 and that it is being divided in order to evade the requirements  
2 as to advertising for bids, shall be jointly and severally  
3 subject to surcharge for ten per centum of the full amount of  
4 the contract or purchase. Whenever it shall appear that a  
5 commissioner may have voted in violation of this section, but  
6 the purchase or contract on which he so voted was not approved  
7 by the board of commissioners, this section shall be  
8 inapplicable.

9 (b) Any commissioner who votes to unlawfully evade the  
10 provisions of section one thousand eight hundred two and who  
11 knows that the transaction upon which he so votes is or ought to  
12 be a part of a larger transaction and that it is being divided  
13 in order to evade the requirements as to advertising for bids  
14 commits a misdemeanor of the third degree for each contract  
15 entered into as a direct result of that vote. This penalty shall  
16 be in addition to any surcharge which may be assessed pursuant  
17 to subsection (a).

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

21 Section 4. This act shall take effect immediately.