

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 REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 4, 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 1. SECTION 1802(A), (A.1) AND (D)(2) OF THE ACT OF ←
15 JUNE 24, 1931 (P.L.1206, NO.331), KNOWN AS THE FIRST CLASS
16 TOWNSHIP CODE, REENACTED AND AMENDED MAY 27, 1949 (P.L.1955,
17 NO.569) AND AMENDED OR ADDED JULY 10, 1990 (P.L.389, NO.92),

1 DECEMBER 18, 1996 (P.L.1149, NO.173) AND DECEMBER 20, 1996
2 (P.L.1495, NO.192), ARE AMENDED AND THE SECTION IS AMENDED BY
3 ADDING A SUBSECTION TO READ:

4 Section 1802. General Regulations Concerning Contracts.--(a)

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

1 construed to mean only the amount which is paid to acquire title
2 or to receive any other particular benefit or benefits of the
3 whole bargain.

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

20 (a.2) Adjustments to the base amounts specified under
21 subsection (a) SUBSECTIONS (A) AND (A.1) shall be made as ←
22 follows:

23 (1) The Department of Labor and Industry shall determine the
24 percentage change in the All Items Consumer Price Index for All
25 Urban Consumers (CPI-U) for the United States City Average as
26 published by the United States Department of Labor, Bureau of
27 Labor Statistics for the twelve-month period ending September
28 30, 2012, and for each successive twelve-month period
29 thereafter.

30 (2) If the department determines that there is no positive

1 percentage change, then no adjustment to the base amounts shall
2 occur for the relevant time period provided for in this
3 subsection.

4 (3) (i) If the department determines that there is a
5 positive percentage change in the first year that the
6 determination is made under paragraph (1), the positive
7 percentage change shall be multiplied by each base amount and
8 the products shall be added to the base amounts, respectively,
9 and the sums shall be preliminary adjusted amounts.

10 (ii) The preliminary adjusted amounts shall be rounded to
11 the nearest one hundred dollars, to determine the final adjusted
12 base amounts for purposes of subsection (a).

13 (4) In each successive year in which there is a positive
14 percentage change in the CPI-U for the United States City
15 Average, the positive percentage change shall be multiplied by
16 the most recent preliminary adjusted amounts and the products
17 shall be added to the preliminary adjusted amount of the prior
18 year to calculate the preliminary adjusted amounts for the
19 current year. The sums thereof shall be rounded to the nearest
20 one hundred dollars to determine the new final adjusted base
21 amounts for purposes of subsection (a).

22 (5) The determinations and adjustments required under this
23 subsection shall be made in the period between October 1 and
24 November 15 of the year following the effective date of this
25 subsection, and annually between October 1 and November 15 of
26 each year thereafter.

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

1 (7) The department shall publish notice in the Pennsylvania
2 Bulletin prior to January 1 of each calendar year of the annual
3 percentage change determined under paragraph (1) and the
4 unadjusted or final adjusted base amounts determined under
5 paragraphs (3) and (4) at which competitive bidding is required
6 under ~~subsection (a)~~ SUBSECTIONS (A) AND (A.1) for the calendar ←
7 year beginning the first day of January after publication of the
8 notice. The notice shall include a written and illustrative
9 explanation of the calculations performed by the department in
10 establishing the unadjusted or final adjusted base amounts under
11 this subsection for the ensuing calendar year.

12 (8) The annual increase in the preliminary adjusted base
13 amounts obtained under paragraphs (3) and (4) shall not exceed
14 three per centum.

15 * * *

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

18 (D) THE CONTRACTS OR PURCHASES MADE BY THE COMMISSIONERS ←
19 WHICH SHALL NOT REQUIRE ADVERTISING, BIDDING OR PRICE
20 QUOTATIONS, AS HEREINBEFORE PROVIDED, ARE AS FOLLOWS:

21 * * *

22 (2) THOSE MADE FOR IMPROVEMENTS, REPAIRS AND MAINTENANCE OF
23 ANY KIND MADE OR PROVIDED BY ANY TOWNSHIP THROUGH ITS OWN
24 EMPLOYES: PROVIDED, HOWEVER, THAT ALL MATERIALS USED FOR STREET
25 IMPROVEMENT, MAINTENANCE, AND/OR CONSTRUCTION IN EXCESS OF [FOUR
26 THOUSAND] THE BASE AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED
27 DOLLARS BE SUBJECT TO THE RELEVANT PRICE QUOTATION OR
28 ADVERTISING REQUIREMENTS AS CONTAINED HEREIN AND TO ADJUSTMENT
29 UNDER SUBSECTION (A.2).

30 * * *

1 SECTION 2. SECTIONS 1802.1 AND 1805 OF THE ACT, AMENDED JULY
2 10, 1990 (P.L.389, NO.92), ARE AMENDED TO READ:

3 Section 1802.1. Evasion of Advertising Requirements.--(a)

4 No commissioner or commissioners shall evade the provisions of
5 section one thousand eight hundred two as to advertising for
6 bids, by purchasing or contracting for services and personal
7 properties piecemeal for the purpose of obtaining prices under

8 [ten thousand dollars] THE BASE AMOUNT OF eighteen thousand five ←
9 hundred dollars subject to adjustment under section 1802(a.2)

10 upon transactions, which transactions should, in the exercise of
11 reasonable discretion and prudence, be conducted as one

12 transaction amounting to more than [ten thousand dollars] THE ←
13 BASE AMOUNT OF eighteen thousand five hundred dollars subject to
14 adjustment under section 1802(a.2). This provision is intended

15 to make unlawful the evading of advertising requirements by
16 making a series of purchases or contracts each for less than the
17 advertising requirement price, or by making several simultaneous
18 purchases or contracts, each below said price, when in either
19 case, the transactions involved should have been made as one
20 transaction for one price. Any commissioners who so vote in
21 violation of this provision, and who know that the transaction
22 upon which they so vote is or ought to be a part of a larger
23 transaction, and that it is being divided in order to evade the
24 requirements as to advertising for bids, shall be jointly and
25 severally subject to surcharge for ten per centum of the full
26 amount of the contract or purchase. Whenever it shall appear
27 that a commissioner may have voted in violation of this section,
28 but the purchase or contract on which he so voted was not
29 approved by the board of commissioners, this section shall be
30 inapplicable.

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

10 SECTION 1805. SEPARATE SPECIFICATIONS FOR BRANCHES OF
11 WORK.--IN THE PREPARATION OF SPECIFICATIONS FOR THE ERECTION OR
12 ALTERATION OF ANY PUBLIC BUILDING, WHEN THE ENTIRE COST OF SUCH
13 WORK EXCEEDS [TEN THOUSAND DOLLARS] THE BASE AMOUNT OF EIGHTEEN
14 THOUSAND FIVE HUNDRED DOLLARS SUBJECT TO ADJUSTMENT UNDER
15 SECTION 1802(A.2), THE ARCHITECT, ENGINEER, OR PERSON PREPARING
16 SUCH SPECIFICATIONS SHALL PREPARE SEPARATE SPECIFICATIONS FOR
17 THE PLUMBING, HEATING, VENTILATING, AND ELECTRICAL WORK, AND THE
18 TOWNSHIP SHALL RECEIVE SEPARATE BIDS UPON EACH OF SUCH BRANCHES
19 OF WORK, AND AWARD THE CONTRACT FOR THE SAME TO THE LOWEST
20 RESPONSIBLE BIDDER.

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

24 Section 4. This act shall take effect immediately.