

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 290 Session of
2011

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

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 26, 2011

AN ACT

1 Amending the act of April 29, 1937 (P.L.526, No.118), entitled,
2 as reenacted and amended, "An act providing for and
3 regulating joint purchases by counties (other than counties
4 of the first class), cities of the second and third class,
5 boroughs, towns, townships, school districts, institution
6 districts, and poor districts," increasing the amount of
7 purchases that may be made subject to certain conditions.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 2 of the act of April 29, 1937 (P.L.526,
11 No.118), referred to as the Political Subdivision Joint
12 Purchases Law, reenacted and amended July 28, 1941 (P.L.544, No.
13 224) and amended July 10, 1990 (P.L.398, No.95), is amended to
14 read:

15 Section 2. (a) All such purchases involving the expenditure
16 of over [ten thousand dollars (\$10,000)] the base amount of
17 eighteen thousand five hundred dollars (\$18,500) subject to
18 adjustment under subsection (b.1) shall be in writing, and shall
19 be made only after notice, by one of the political subdivisions

1 joining therein, once a week for two weeks in one or more
2 newspapers of general circulation published in the political
3 subdivision advertising the same. All plans and specifications
4 shall be placed on file by each of the political subdivisions
5 joining in such purchase at least fifteen days in advance of
6 opening bids.

7 (b) Written or telephonic price quotations from at least
8 three qualified and responsible contractors shall be requested
9 for all contracts that exceed [four thousand dollars (\$4,000)]
10 the base amount of ten thousand dollars (\$10,000) subject to
11 adjustment under subsection (b.1) but are less than the amount
12 requiring advertisement and competitive bidding or, in lieu of
13 price quotations, a memorandum shall be kept on file showing
14 that fewer than three qualified contractors exist in the market
15 area within which it is practicable to obtain quotations. A
16 written record of telephonic price quotations shall be made and
17 shall contain at least the date of the quotation, the name of
18 the contractor and the contractor's representative, the
19 construction, reconstruction, repair, maintenance or work which
20 was the subject of the quotation and the price. Written price
21 quotations, written records of telephonic price quotations and
22 memoranda shall be retained for a period of three years.

23 (b.1) Adjustments to the base amounts specified under
24 subsections (a) and (b) shall be made as follows:

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

1 thereafter.

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

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

12 (ii) The preliminary adjusted amounts shall be rounded to
13 the nearest one thousand dollars (\$1,000) HUNDRED DOLLARS
14 (\$100), to determine the final adjusted base amounts for
15 purposes of subsections (a) and (b).

16 (4) In each successive year in which there is a positive
17 percentage change in the CPI-U for the United States City
18 Average, the positive percentage change shall be multiplied by
19 the most recent preliminary adjusted amounts and the products
20 shall be added to the preliminary adjusted amount of the prior
21 year to calculate the preliminary adjusted amounts for the
22 current year. The sums thereof shall be rounded to the nearest
23 one thousand dollars (\$1,000) HUNDRED DOLLARS (\$100) to
24 determine the new final adjusted base amounts for purposes of
25 subsections (a) and (b).

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

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

5 (7) The department shall publish notice in the Pennsylvania
6 Bulletin prior to January 1 of each calendar year of the annual
7 percentage change determined under paragraph (1) and the
8 unadjusted or final adjusted base amounts determined under
9 paragraphs (3) and (4) at which competitive bidding is required
10 under subsection (a) and written or telephonic price quotations
11 are required under subsection (b), respectively, for the
12 calendar year beginning the first day of January after
13 publication of the notice. The notice shall include a written
14 and illustrative explanation of the calculations performed by
15 the department in establishing the unadjusted or final adjusted
16 base amounts under this subsection for the ensuing calendar
17 year.

18 ~~(8) No adjustment to the base amounts specified under~~ ←
19 ~~subsections (a) and (b) shall exceed three percent of the most~~
20 ~~recently adjusted base amount~~ THE ANNUAL INCREASE IN THE ←
21 PRELIMINARY ADJUSTED BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3)
22 AND (4) SHALL NOT EXCEED THREE PERCENT.

23 (c) No county or municipal government shall evade the
24 provisions of this section as to advertising for bids or
25 purchasing materials or contracting for services piecemeal for
26 the purpose of obtaining prices under [ten thousand dollars
27 (\$10,000)] the base amount of eighteen thousand five hundred
28 dollars (\$18,500) subject to adjustment under subsection (b.1)
29 upon transactions which should, in the exercise of reasonable
30 discretion and prudence, be conducted as one transaction

1 amounting to more than [ten thousand dollars (\$10,000)] the base
2 amount of eighteen thousand five hundred dollars (\$18,500)
3 subject to adjustment under subsection (b.1). This provision is
4 intended to make unlawful the practice of evading advertising
5 requirements by making a series of purchases or contracts each
6 for less than the advertising requirement price or by making
7 several simultaneous purchases or contracts each below said
8 price, when in either case the transaction involved should have
9 been made as one transaction for one price.

10 (d) Any member of a governing body of a county or
11 municipality who votes to unlawfully evade the provisions of
12 this section and who knows that the transaction upon which he so
13 votes is or ought to be a part of a larger transaction and that
14 it is being divided in order to evade the requirements as to
15 advertising for bids commits a misdemeanor of the third degree
16 for each contract entered into as a direct result of that vote.

17 (e) Every contract for the construction, reconstruction,
18 alteration, repair, improvement or maintenance of public works
19 shall comply with the provisions of the act of March 3, 1978
20 (P.L.6, No.3), known as the "Steel Products Procurement Act."

21 Section 2. 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 3. This act shall take effect immediately.