
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 292 Session of
2011

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

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JANUARY 26, 2011

AN ACT

1 Amending the act of August 7, 1936 (1st Sp.Sess., P.L.106, No.
2 46), entitled, as reenacted and amended, "An act relating to
3 flood control; prescribing the powers and duties of the Water
4 and Power Resources Board of the Department of Forests and
5 Waters in relation to the creation of flood control
6 districts, adoption of plans for flood control works and
7 improvements, carrying into effect of such plans, assistance,
8 aid and cooperation with public and private agencies and the
9 Federal Government in Federal flood control works and
10 improvements, and entering into compacts and agreements with
11 other states for flood control works and improvements;
12 conferring the power of eminent domain; providing for the
13 setting off of benefits; imposing certain charges upon the
14 Commonwealth; providing for appeals; and conferring certain
15 powers on municipalities, counties, and townships, and the
16 Department of Highways," further providing for contracts and
17 acquisition of property; and providing for adjustment and for
18 evasion of advertising requirements.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 Section 1. Section 10 of the act of August 7, 1936 (1st
22 Sp.Sess., P.L.106, No.46), referred to as the Flood Control Law,
23 reenacted and amended March 10, 1937 (P.L.43, No.18) and amended
24 December 22, 1981 (P.L.551, No.162), is amended to read:

25 Section 10. Contracts and Acquisition of Property.--All work

1 of any character whatever performed by the board under the
2 authority of this act, except as hereinafter provided, in
3 connection with any State public flood control works and
4 improvements, involving an expenditure of more than [four
5 thousand dollars] twenty-five thousand dollars subject to
6 adjustment under section 10.1, shall be performed under written
7 contract let by the board to the lowest responsible bidder after
8 due advertisement as prescribed by the board; except, however,
9 that the board may, with the approval of the Governor, enter
10 into contracts or agreements, without advertisement, with any
11 person, corporation or municipality, covering the removal or
12 relocation of gas, water, and telephone, telegraph, electric
13 light, and electric power lines, highways, railroads, or other
14 facilities, and providing therein for said removal or relocation
15 by the person, corporation or municipality owning such facility.
16 The board may, with the approval of the Governor, acquire any
17 necessary easements and rights-of-way and may pay all costs and
18 damages necessary, arising from and incidental to said removal
19 or relocation. Payment shall be made from the General Fund
20 Appropriations for Flood Control Projects.

21 The board may sell, lease, or otherwise dispose of all
22 property, real, personal or mixed, acquired under the provisions
23 of this act, not needed by the Commonwealth for reservoir or
24 flood control purposes, subject to the approval of the Governor.
25 The moneys received through such sale, lease or other
26 disposition shall accrue to the General Fund.

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

1 Section 2. The act is amended by adding sections to read:

2 Section 10.1. Adjustment.--(a) Every five years, beginning
3 with the year in which this subsection becomes applicable to
4 contracts and purchases, the Department of Labor and Industry
5 shall calculate the average percentage change in the Consumer
6 Price Index for All Urban Consumers (CPI-U) for the United
7 States city average for all items as published by the United
8 States Department of Labor, Bureau of Labor Statistics, for the
9 preceding five-year period.

10 (b) The amount at which competitive bidding is required
11 under section 10 shall be adjusted every five years. The
12 positive percentage change, as determined in accordance with
13 subsection (a), shall be multiplied by the amount applicable
14 under section 10 for the current five-year period and the
15 product thereof shall be added to the amount applicable under
16 section 10 for the current five-year period, with the result
17 rounded to the nearest multiple of one hundred dollars.

18 (c) The determination required under subsection (a) and the
19 calculation of the adjustments required under subsection (b)
20 shall be made in the period between October 1 and November 15 of
21 the year following the effective date of this section, and
22 between October 1 and November 15 of each successive year.

23 (d) The adjusted amounts obtained in accordance with
24 subsection (b) shall become effective January 1 for the five-
25 year period following the year in which the determination
26 required under subsection (a) is made.

27 (e) The Department of Labor and Industry shall give notice
28 in the Pennsylvania Bulletin prior to January 1 of each calendar
29 year in which the percentage change determined in accordance
30 with subsection (a) and the amounts, whether adjusted or

1 unadjusted in accordance with subsection (b), at which
2 competitive bidding is required under section 10 for the five-
3 year period beginning the first day of January after publication
4 of the notice.

5 Section 10.2. Evasion of Advertising Requirements.--No board
6 member shall evade the provisions of section 10 as to
7 advertising for bids, by purchasing or contracting for services
8 and personal properties piecemeal to obtain prices under the
9 required advertising price, subject to adjustment under section
10 10.1. This provision is intended to make unlawful the evading of
11 advertising requirements by making a series of purchases or
12 contracts each for less than the advertising requirement price,
13 or by making several simultaneous purchases or contracts, each
14 below said price, when in either case, the transactions involved
15 should have been made as one transaction for one price. Any
16 board members who so vote in violation of this provision, and
17 who know that the transaction upon which they so vote is or
18 ought to be a part of a larger transaction, and that it is being
19 divided in order to evade the requirements as to advertising for
20 bids, shall be jointly and severally subject to surcharge for
21 ten percent of the full amount of the contract or purchase.
22 Whenever it shall appear that a board member may have voted in
23 violation of this section, but the purchase or contract on which
24 the member so voted was not approved by the board, this section
25 shall be inapplicable.

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

29 Section 4. This act shall take effect immediately.