

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, PICCOLA AND BROWNE, JANUARY 26, 2011

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 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~~ ADJUSTMENTS.



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:

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

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

29 Every contract for the construction, reconstruction,
30 alteration, repair, improvement or maintenance of public works

1 shall comply with the provisions of the act of March 3, 1978
2 (P.L.6, No.3), known as the "Steel Products Procurement Act."

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

4 Section 10.1. Adjustments.--(a) Adjustments to the base
5 amounts specified under section 10 shall be made as follows:

6 (1) The Department of Labor and Industry shall determine the
7 percentage change in the All Items Consumer Price Index for All
8 Urban Consumers (CPI-U) for the United States City Average as
9 published by the United States Department of Labor, Bureau of
10 Labor Statistics for the twelve-month period ending September
11 30, 2012, and for each successive twelve-month period
12 thereafter.

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

17 (3) (i) If the department determines that there is a
18 positive percentage change in the first year that the
19 determination is made under paragraph (1), the positive
20 percentage change shall be multiplied by each base amount and
21 the products shall be added to the base amounts, respectively,
22 and the sums shall be preliminary adjusted amounts.

23 (ii) The preliminary adjusted amounts shall be rounded to
24 the nearest one ~~thousand~~ HUNDRED dollars, to determine the final ←
25 adjusted base amounts for purposes of section 10.

26 (4) In each successive year in which there is a positive
27 percentage change in the CPI-U for the United States City
28 Average, the positive percentage change shall be multiplied by
29 the most recent preliminary adjusted amounts and the products
30 shall be added to the preliminary adjusted amount of the prior

1 year to calculate the preliminary adjusted amounts for the
2 current year. The sums thereof shall be rounded to the nearest
3 one thousand HUNDRED dollars to determine the new final adjusted ←
4 base amounts for purposes of section 10.

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

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

14 (7) The department shall publish notice in the Pennsylvania
15 Bulletin prior to January 1 of each calendar year of the annual
16 percentage change determined under paragraph (1) and the
17 unadjusted or final adjusted base amounts determined under
18 paragraphs (3) and (4) at which competitive bidding is required
19 under this subsection for the calendar year beginning the first
20 day of January after publication of the notice. The notice shall
21 include a written and illustrative explanation of the
22 calculations performed by the department in establishing the
23 unadjusted or final adjusted base amounts under this subsection
24 for the ensuing calendar year.

25 ~~(8) No adjustment to the base amounts specified under~~ ←
26 ~~section 10 shall exceed three percent of the most recently~~
27 ~~adjusted base amount. THE ANNUAL INCREASE IN THE PRELIMINARY~~ ←
28 ~~ADJUSTED BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4)~~
29 ~~SHALL NOT EXCEED THREE PERCENT.~~

30 Section 3. This act shall apply to contracts and purchases

1 advertised on or after January 1 of the year following the
2 effective date of this section.

3 Section 4. This act shall take effect immediately.