

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 293 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 AND PICCOLA, JANUARY 26, 2011

REFERRED TO EDUCATION, JANUARY 26, 2011

AN ACT

1 Amending the act of July 5, 1947 (P.L.1217, No.498), entitled
 2 "An act to promote the education and educational facilities
 3 of the people of the Commonwealth of Pennsylvania; creating a
 4 State Public School Building Authority as a body corporate
 5 and politic with power to construct, improve and operate
 6 projects and to lease the same and to fix and collect fees,
 7 rentals and charges for the use thereof; authorizing school
 8 districts to enter into contracts to lease; authorizing and
 9 regulating the issuance of bonds by said Authority; and
 10 providing for the payment of such bonds and the rights of the
 11 holders thereof; granting the right of eminent domain;
 12 increasing the powers and duties of the Department of Public
 13 Instruction; and providing that no debt of the Commonwealth
 14 shall be incurred in the exercise of any of eminent domain;
 15 increasing the powers and duties of the Department of Public
 16 Instruction; and providing that no debt of the Commonwealth
 17 shall be incurred in the exercise of any of the powers
 18 granted under this act; and making an appropriation to said
 19 Authority to pay expenses incident to its formation," further
 20 providing for competitive bidding of contracts; and providing
 21 for evasion of advertising requirements.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. Section 10 of the act of July 5, 1947 (P.L.1217,
 25 No.498), known as the State Public School Building Authority
 26 Act, amended April 20, 1949 (P.L.636, No.142), October 4, 1978

1 (P.L.1024, No.227) and December 22, 1981 (P.L.554, No.164), is
2 amended to read:

3 Section 10. Competition in Award of Contracts.--(a) If any
4 project or any portion thereof, or any improvement thereof,
5 shall be constructed pursuant to a contract, and the estimated
6 cost thereof exceeds [four thousand dollars (\$4,000)] twenty-
7 five thousand dollars (\$25,000), subject to adjustment under
8 clause (b), such contract shall be awarded to the lowest
9 responsible bidder after advertisement for bids once a week for
10 three weeks in at least one newspaper of general circulation in
11 the county where the project or improvement is located. The
12 authority may make rules and regulations for the submission of
13 bids and the construction or improvement of any project or
14 portion thereof. No contract shall be entered into for
15 construction or improvement of any project or portion thereof,
16 or for the purchase of materials, unless the contractor shall
17 give an undertaking with a sufficient surety or sureties
18 approved by the Authority, and in an amount fixed by the
19 Authority, for the faithful performance of the contract, and
20 such contract shall be accompanied by an additional bond for the
21 protection of those who furnish labor and material, for such
22 amount and subject to the same terms and conditions as
23 recommended by The Administrative Code of one thousand nine
24 hundred twenty-nine, as amended, on contracts entered into by
25 the Department of General Services for the erection of
26 buildings. All construction contracts shall provide, among other
27 things, that the person or corporation entering into such
28 contract with the Authority will pay for all materials furnished
29 and services rendered, for the performance of the contract, and
30 that any person or corporation furnishing such materials or

1 rendering such services may maintain an action to recover for
2 the same against the obligor in the undertaking as though such
3 person or corporation was named therein, provided the action is
4 brought within one year after the time the cause of action
5 accrued. Nothing in this section shall be construed to limit the
6 power of the Authority to construct any project or portion
7 thereof or any addition, betterment or extension thereto,
8 directly by the officers, agents and employes of the Authority,
9 or otherwise than by contract.

10 Subject to the aforesaid, the Authority may (but without
11 intending by this provision to limit any powers of such
12 Authority), enter into and carry out such contracts, or
13 establish or comply with such rules and regulations concerning
14 labor and materials and other related matters in connection with
15 any project or portion thereof as the Authority may deem
16 desirable, or as may be requested by any Federal agency that may
17 assist in the financing of such project or any part thereof.

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

22 (b) Adjustments shall be made as follows:

23 (1) Every five years, beginning with the year in which this
24 subsection becomes applicable to contracts and purchases, the
25 Department of Labor and Industry shall calculate the average
26 percentage change in the Consumer Price Index for All Urban
27 Consumers (CPI-U) for the United States city average for all
28 items as published by the United States Department of Labor,
29 Bureau of Labor Statistics, for the preceding five-year period.

30 (2) The positive percentage change, as determined in

1 accordance with paragraph (1), shall be multiplied by the amount
2 applicable under clause (a) for the current five-year period and
3 the product thereof shall be added to the amount applicable
4 under clause (a) for the current five-year period, with the
5 result rounded to the nearest multiple of one hundred dollars
6 (\$100).

7 (3) The determination required under paragraph (1) and the
8 calculation of the adjustments required under paragraph (2)
9 shall be made in the period between October 1 and November 15 of
10 the year following the effective date of this subsection, and
11 between October 1 and November 15 of each successive year.

12 (4) The adjusted amounts obtained in accordance with
13 paragraph (2) shall become effective January 1 for the five-year
14 period following the year in which the determination required
15 under paragraph (1) is made.

16 (5) The Department of Labor and Industry shall give notice
17 in the Pennsylvania Bulletin prior to January 1 of each calendar
18 year in which the percentage change determined in accordance
19 with paragraph (1) and the amounts, whether adjusted or
20 unadjusted in accordance with paragraph (2), at which
21 competitive bidding is required under clause (a) for the five-
22 year period beginning the first day of January after publication
23 of the notice.

24 Section 2. The act is amended by adding a section to read:

25 Section 10.1. Evasion of Advertising Requirements.--No
26 member of the Authority shall evade the provisions of section 10
27 as to advertising for bids, by purchasing or contracting for
28 services and personal properties piecemeal to obtain prices
29 under the required advertising price, subject to annual
30 adjustment under section 10(b). This provision is intended to

1 make unlawful the evading of advertising requirements by making
2 a series of purchases or contracts each for less than the
3 advertising requirement price, or by making several simultaneous
4 purchases or contracts, each below said price, when in either
5 case, the transactions involved should have been made as one
6 transaction for one price. Any members of the Authority who so
7 vote in violation of this provision, and who know that the
8 transaction upon which they so vote is or ought to be a part of
9 a larger transaction, and that it is being divided in order to
10 evade the requirements as to advertising for bids, shall be
11 jointly and severally subject to surcharge for ten per centum of
12 the full amount of the contract or purchase. Whenever it shall
13 appear that a member of the Authority may have voted in
14 violation of this section, but the purchase or contract on which
15 the member so voted was not approved by the Authority, this
16 section shall be inapplicable.

17 Section 3. The amendment or addition of sections 10 and 10.1
18 of the act shall apply to contracts and purchases advertised
19 after December 31 of the year in which this section takes
20 effect.

21 Section 4. This act shall take effect immediately.