

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, PICCOLA, MENSCH AND BROWNE,
JANUARY 26, 2011

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
SEPTEMBER 20, 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

1 Act, amended April 20, 1949 (P.L.636, No.142), October 4, 1978
2 (P.L.1024, No.227) and December 22, 1981 (P.L.554, No.164), is
3 amended to read:

4 Section 10. Competition in Award of Contracts.--(a) If any
5 project or any portion thereof, or any improvement thereof,
6 shall be constructed pursuant to a contract, and the estimated
7 cost thereof exceeds [four thousand dollars (\$4,000)] ~~twenty~~ ←
8 ~~five thousand dollars (\$25,000)~~ THE BASE AMOUNT OF EIGHTEEN ←
9 THOUSAND FIVE HUNDRED DOLLARS (\$18,500), subject to adjustment
10 under ~~clause~~ SUBSECTION (b), such contract shall be awarded to ←
11 the lowest responsible bidder after advertisement for bids once
12 a week for three weeks in at least one newspaper of general
13 circulation in the county where the project or improvement is
14 located. The authority may make rules and regulations for the
15 submission of bids and the construction or improvement of any
16 project or portion thereof. No contract shall be entered into
17 for construction or improvement of any project or portion
18 thereof, or for the purchase of materials, unless the contractor
19 shall give an undertaking with a sufficient surety or sureties
20 approved by the Authority, and in an amount fixed by the
21 Authority, for the faithful performance of the contract, and
22 such contract shall be accompanied by an additional bond for the
23 protection of those who furnish labor and material, for such
24 amount and subject to the same terms and conditions as
25 recommended by The Administrative Code of one thousand nine
26 hundred twenty-nine, as amended, on contracts entered into by
27 the Department of General Services for the erection of
28 buildings. All construction contracts shall provide, among other
29 things, that the person or corporation entering into such
30 contract with the Authority will pay for all materials furnished

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

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

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

24 ~~(b) Adjustments shall be made as follows:~~ ←

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

1 ~~Bureau of Labor Statistics, for the preceding five year period.~~

2 ~~(2) The positive percentage change, as determined in~~
3 ~~accordance with paragraph (1), shall be multiplied by the amount~~
4 ~~applicable under clause (a) for the current five year period and~~
5 ~~the product thereof shall be added to the amount applicable~~
6 ~~under clause (a) for the current five year period, with the~~
7 ~~result rounded to the nearest multiple of one hundred dollars~~
8 ~~(\$100).~~

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

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

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

26 (B) ADJUSTMENTS TO THE BASE AMOUNTS SPECIFIED UNDER
27 SUBSECTION (A) SHALL BE MADE AS FOLLOWS:

28 (1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE THE
29 PERCENTAGE CHANGE IN THE ALL ITEMS CONSUMER PRICE INDEX FOR ALL
30 URBAN CONSUMERS (CPI-U) FOR THE UNITED STATES CITY AVERAGE AS



1 PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF
2 LABOR STATISTICS FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER
3 30, 2012, AND FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD
4 THEREAFTER.

5 (2) IF THE DEPARTMENT DETERMINES THAT THERE IS NO POSITIVE
6 PERCENTAGE CHANGE, THEN NO ADJUSTMENT TO THE BASE AMOUNTS SHALL
7 OCCUR FOR THE RELEVANT TIME PERIOD PROVIDED FOR IN THIS
8 SUBSECTION.

9 (3) (I) IF THE DEPARTMENT DETERMINES THAT THERE IS A
10 POSITIVE PERCENTAGE CHANGE IN THE FIRST YEAR THAT THE
11 DETERMINATION IS MADE UNDER PARAGRAPH (1), THE POSITIVE
12 PERCENTAGE CHANGE SHALL BE MULTIPLIED BY EACH BASE AMOUNT AND
13 THE PRODUCTS SHALL BE ADDED TO THE BASE AMOUNTS, RESPECTIVELY,
14 AND THE SUMS SHALL BE PRELIMINARY ADJUSTED AMOUNTS.

15 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO
16 THE NEAREST ONE THOUSAND DOLLARS (\$1,000), TO DETERMINE THE
17 FINAL ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTION (A).

18 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE
19 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY
20 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY
21 THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS
22 SHALL BE ADDED TO THE PRELIMINARY ADJUSTED AMOUNT OF THE PRIOR
23 YEAR TO CALCULATE THE PRELIMINARY ADJUSTED AMOUNTS FOR THE
24 CURRENT YEAR. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST
25 ONE THOUSAND DOLLARS (\$1,000) TO DETERMINE THE NEW FINAL
26 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTION (A).

27 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS
28 SUBSECTION SHALL BE MADE IN THE PERIOD BETWEEN OCTOBER 1 AND
29 NOVEMBER 15 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS
30 SUBSECTION, AND ANNUALLY BETWEEN OCTOBER 1 AND NOVEMBER 15 OF

1 EACH YEAR THEREAFTER.

2 (6) THE FINAL ADJUSTED BASE AMOUNTS AND NEW FINAL ADJUSTED
3 BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL BECOME
4 EFFECTIVE JANUARY 1 FOR THE CALENDAR YEAR FOLLOWING THE YEAR IN
5 WHICH THE DETERMINATION REQUIRED UNDER PARAGRAPH (1) IS MADE.

6 (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA
7 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL
8 PERCENTAGE CHANGE DETERMINED UNDER PARAGRAPH (1) AND THE
9 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER
10 PARAGRAPHS (3) AND (4) AT WHICH COMPETITIVE BIDDING IS REQUIRED
11 UNDER SUBSECTION (A) FOR THE CALENDAR YEAR BEGINNING THE FIRST
12 DAY OF JANUARY AFTER PUBLICATION OF THE NOTICE. THE NOTICE SHALL
13 INCLUDE A WRITTEN AND ILLUSTRATIVE EXPLANATION OF THE
14 CALCULATIONS PERFORMED BY THE DEPARTMENT IN ESTABLISHING THE
15 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS UNDER THIS SUBSECTION
16 FOR THE ENSUING CALENDAR YEAR.

17 (8) NO ADJUSTMENT TO THE BASE AMOUNTS SPECIFIED UNDER
18 SUBSECTION (A) SHALL EXCEED THREE PER CENTUM OF THE MOST
19 RECENTLY ADJUSTED BASE AMOUNT.

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

21 Section 10.1. Evasion of Advertising Requirements.--No
22 member of the Authority shall evade the provisions of section 10
23 as to advertising for bids, by purchasing or contracting for
24 services and personal properties piecemeal to obtain prices
25 under the required advertising price, subject to annual
26 adjustment under section 10(b). This provision is intended to
27 make unlawful the evading of advertising requirements by making
28 a series of purchases or contracts each for less than the
29 advertising requirement price, or by making several simultaneous
30 purchases or contracts, each below said price, when in either

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

13 Section 3. The amendment or addition of sections 10 and 10.1
14 of the act shall apply to contracts and purchases advertised on
15 or after January 1 of the year following the effective date of
16 this section.

17 Section 4. This act shall take effect immediately.