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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 295 Session of  
2011

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INTRODUCED BY WAUGH, 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

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REFERRED TO URBAN AFFAIRS AND HOUSING, JANUARY 26, 2011

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AN ACT

1 Amending the act of May 28, 1937 (P.L.955, No.265), entitled, as  
2 amended, "An act to promote public health, safety, morals,  
3 and welfare by declaring the necessity of creating public  
4 bodies, corporate and politic, to be known as housing  
5 authorities to engage in slum clearance, and to undertake  
6 projects, to provide dwelling accommodations for persons of  
7 low income; providing for the organization of such housing  
8 authorities; defining their powers and duties; providing for  
9 the exercise of such powers, including the acquisition of  
10 property by purchase, gift or eminent domain, the renting and  
11 selling of property, and including borrowing money, issuing  
12 bonds, and other obligations, and giving security therefor;  
13 prescribing the remedies of obligees of housing authorities;  
14 authorizing housing authorities to enter into agreements,  
15 including agreements with the United States, the  
16 Commonwealth, and political subdivisions and municipalities  
17 thereof; defining the application of zoning, sanitary, and  
18 building laws and regulations to projects built or maintained  
19 by such housing authorities; exempting the property and  
20 securities of such housing authorities from taxation; and  
21 imposing duties and conferring powers upon the State Planning  
22 Board, and certain other State officers and departments,"  
23 further providing for awards of contracts, completion bond,  
24 additional bond for protection of materialmen and others.

25 The General Assembly of the Commonwealth of Pennsylvania  
26 hereby enacts as follows:

27 Section 1. Section 11 of the act of May 28, 1937 (P.L.955,

1 No.265), known as the Housing Authorities Law, amended May 20,  
2 1949 (P.L.1614, No.486), February 16, 1990 (P.L.67, No.13) and  
3 November 21, 1990 (P.L.569, No.143), is amended to read:

4 Section 11. Awards of Contracts; Completion Bond; Additional  
5 Bond for Protection of Materialmen and Others.--

6 (a) Whenever the estimated cost of any construction,  
7 erection, installation, completion, alteration, repair of, or  
8 addition to, any project subject to the control of any Authority  
9 shall exceed [ten thousand (\$10,000) dollars] twenty-five  
10 thousand (\$25,000) dollars subject to adjustment under  
11 subsection (b.3), it shall be the duty of said Authority to have  
12 such work performed pursuant to a contract awarded to the lowest  
13 responsible bidder, after advertisement for bids. Every such  
14 contract shall contain a provision obligating the contractor to  
15 the prompt payment of all material furnished, labor supplied or  
16 performed, rental for equipment employed, and services rendered  
17 by public utilities in or in connection with the prosecution of  
18 the work, whether or not the said material, labor, equipment or  
19 service enter into and become component parts of the work or  
20 improvement contemplated. Such provision shall be deemed to be  
21 included for the benefit of every person, copartnership,  
22 association or corporation who, as subcontractor or otherwise,  
23 has furnished material, supplied or performed labor, rented  
24 equipment or services in or in connection with the prosecution  
25 of the work as aforesaid, and the inclusion thereof in any  
26 contract shall preclude the filing by any such person,  
27 copartnership, association or corporation of any mechanics' lien  
28 claim for such material, labor or rental of equipment.

29 (b) Whenever the estimated cost of any purchase of supplies,  
30 materials or equipment or the rental of any equipment, whether

1 or not the same is to be used in connection with the  
2 construction, erection, installation, completion, alteration,  
3 repair of, or addition to, any project subject to the control of  
4 any Authority, shall exceed [ten thousand (\$10,000) dollars]  
5 twenty-five thousand (\$25,000) dollars subject to adjustment  
6 under subsection (b.3), it shall be the duty of such Authority  
7 to have such purchase or rental made pursuant to a contract  
8 awarded to the lowest responsible bidder, after advertisement  
9 for bids, such advertisement to be inserted in a newspaper of  
10 general circulation within the county in which the Authority  
11 operates.

12 (b.1) An authority shall not evade the provisions of  
13 subsection (a) or (b) as to advertising for bids by purchasing  
14 materials or contracting for services piecemeal for the purpose  
15 of obtaining prices under [ten thousand (\$10,000) dollars]  
16 twenty-five thousand (\$25,000) dollars subject to adjustment  
17 under subsection (b.3) upon transactions which should, in the  
18 exercise of reasonable discretion and prudence, be conducted as  
19 one transaction amounting to more than [ten thousand (\$10,000)  
20 dollars] twenty-five thousand (\$25,000) dollars subject to  
21 adjustment under subsection (b.3). This provision is intended to  
22 make unlawful the practice of evading advertising requirements  
23 by making a series of purchases or contracts, each for less than  
24 the advertising requirement price, or by making several  
25 simultaneous purchases or contracts, each below said price,  
26 when, in either case, the transactions involved should have been  
27 made as one transaction for one price.

28 (b.2) Written or telephonic price quotations from at least  
29 three qualified and responsible contractors shall be requested  
30 for all contracts that exceed [four thousand (\$4,000) dollars]

1 seven thousand (\$7,000) dollars subject to adjustment under  
2 subsection (b.3) but are less than the amount requiring  
3 advertisement and competitive bidding or, in lieu of price  
4 quotations, a memorandum shall be kept on file showing that  
5 fewer than three qualified contractors exist in the market area  
6 within which it is practicable to obtain quotations. A written  
7 record of telephonic price quotations shall be made and shall  
8 contain at least the date of the quotation, the name of the  
9 contractor and the contractor's representative, the  
10 construction, reconstruction, repair, maintenance or work which  
11 was the subject of the quotation and the price. Written price  
12 quotations, written records of telephonic price quotations and  
13 memoranda shall be retained for a period of three years.

14 (b.3) (1) Every five years, beginning with the year in  
15 which this subsection becomes applicable to contracts and  
16 purchases, the Department of Labor and Industry shall calculate  
17 the average percentage change in the Consumer Price Index for  
18 All Urban Consumers (CPI-U) for the United States city average  
19 for all items as published by the United States Department of  
20 Labor, Bureau of Labor Statistics, for the preceding five-year  
21 period.

22 (2) The amount at which competitive bidding is required  
23 under subsection (a) and the amount at which written or  
24 telephonic price quotations are required under subsection (b.2)  
25 shall be adjusted every five years as follows:

26 (i) In the case of competitive bidding, the positive  
27 percentage change, as determined in accordance with clause (1),  
28 shall be multiplied by the amount applicable under subsection  
29 (a) for the current year and the product thereof shall be added  
30 to the amount applicable under subsection (a) for the five-year

1 period, with the result rounded to the nearest multiple of one  
2 hundred (\$100) dollars.

3 (ii) In the case of written or telephonic price quotations,  
4 the positive percentage change, as determined in accordance with  
5 clause (1), shall be multiplied by the amount applicable under  
6 subsection (b.2) for the five-year period and the product  
7 thereof shall be added to the amount applicable under subsection  
8 (b.2) for the five-year period, with the result rounded to the  
9 nearest multiple of one hundred (\$100) dollars.

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

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

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

28 (c) A housing authority shall require as a condition of the  
29 award of any contract, pursuant to subsection (a) or (b) of this  
30 section, that the contractor give to the Authority any bond

1 (including bonds for the performance of the contract, and for  
2 the prompt payment by the contractor for material, supplies,  
3 labor, services and equipment) which are prescribed by law for  
4 contracts awarded by cities or counties, as the case may be, of  
5 the same class as the city or county for which such Authority  
6 has been created.

7 (d) Notwithstanding anything to the contrary contained in  
8 this act or in any other provision of law, a housing authority  
9 may include, in any contract let in connection with a project,  
10 stipulations requiring that the contractor and any  
11 subcontractors comply with requirements as to minimum wages and  
12 maximum hours of labor, and comply with any conditions which the  
13 Federal or State Government may have attached to its financial  
14 aid of the project.

15 (e) Every Authority awarding contracts or requiring the  
16 delivery of bonds pursuant to this section shall keep an exact  
17 copy of every contract awarded or bond delivered upon file at  
18 its principal office. Subject to regulations to be prescribed by  
19 the State Planning Board for their safe keeping such copies  
20 shall be opened to public inspection.

21 (f) Any authority member who votes to unlawfully evade the  
22 provisions of this section and who knows that the transaction  
23 upon which he so votes is or ought to be a part of a larger  
24 transaction and that it is being divided in order to evade the  
25 requirements as to advertising for bids commits a misdemeanor of  
26 the third degree for each contract entered into as a direct  
27 result of that vote.

28 Section 2. This act shall apply to contracts and purchases  
29 advertised on or after January 1 of the year following the  
30 effective date of this section.

1 Section 3. This act shall take effect immediately.