

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 295** Session of
2011

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, PICCOLA AND BROWNE,
JANUARY 26, 2011

SENATOR YAW, URBAN AFFAIRS AND HOUSING, AS AMENDED, MAY 4, 2011

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)~~ (B.4), it shall be the duty of said Authority ←
12 to have such work performed pursuant to a contract awarded to
13 the lowest responsible bidder, after advertisement for bids.
14 Every such contract shall contain a provision obligating the
15 contractor to the prompt payment of all material furnished,
16 labor supplied or performed, rental for equipment employed, and
17 services rendered by public utilities in or in connection with
18 the prosecution of the work, whether or not the said material,
19 labor, equipment or service enter into and become component
20 parts of the work or improvement contemplated. Such provision
21 shall be deemed to be included for the benefit of every person,
22 copartnership, association or corporation who, as subcontractor
23 or otherwise, has furnished material, supplied or performed
24 labor, rented equipment or services in or in connection with the
25 prosecution of the work as aforesaid, and the inclusion thereof
26 in any 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)~~ (B.4), it shall be the duty of such ←
7 Authority to have such purchase or rental made pursuant to a
8 contract awarded to the lowest responsible bidder, after
9 advertisement for bids, such advertisement to be inserted in a
10 newspaper of general circulation within the county in which the
11 Authority 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)~~ (B.4) upon transactions which should, in ←
18 the exercise of reasonable discretion and prudence, be conducted
19 as one transaction amounting to more than [ten thousand
20 (\$10,000) dollars] twenty-five thousand (\$25,000) dollars
21 subject to adjustment under subsection ~~(b.3)~~ (B.4). This ←
22 provision is intended to make unlawful the practice of evading
23 advertising requirements by making a series of purchases or
24 contracts, each for less than the advertising requirement price,
25 or by making several simultaneous purchases or contracts, each
26 below said price, when, in either case, the transactions
27 involved should have been 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)~~ (B.4) 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) CONTRACTS OR PURCHASES INVOLVING THE EXPENDITURE OF ←
15 MORE THAN TEN THOUSAND (\$10,000) DOLLARS BUT LESS THAN TWENTY-
16 FIVE THOUSAND (\$25,000) DOLLARS UNDER THIS SECTION SHALL BE
17 POSTED ON THE AUTHORITY'S INTERNET WEBSITE AND IN THE PLACE
18 WHERE THE AUTHORITY NORMALLY MEETS OR OTHER CONSPICUOUS PLACE
19 FOR FOURTEEN (14) BUSINESS DAYS PRIOR TO OBTAINING ANY BID OR
20 PRICE QUOTATION FOR THE CONTRACT OR PURCHASE.

21 ~~(b.3)~~ (B.4) (1) Every five years, beginning with the year ←
22 in which this subsection becomes applicable to contracts and
23 purchases, the Department of Labor and Industry shall calculate
24 the average percentage change in the Consumer Price Index for
25 All Urban Consumers (CPI-U) for the United States city average
26 for all items as published by the United States Department of
27 Labor, Bureau of Labor Statistics, for the preceding five-year
28 period.

29 (2) The amount at which competitive bidding is required
30 under subsection (a) and the amount at which written or

1 telephonic price quotations are required under subsection (b.2)
2 shall be adjusted every five years as follows:

3 (i) In the case of competitive bidding, the positive
4 percentage change, as determined in accordance with clause (1),
5 shall be multiplied by the amount applicable under subsection
6 (a) for the current year and the product thereof shall be added
7 to the amount applicable under subsection (a) for the five-year
8 period, with the result rounded to the nearest multiple of one
9 ~~hundred (\$100)~~ THOUSAND (\$1,000) dollars. ←

10 (ii) In the case of written or telephonic price quotations,
11 the positive percentage change, as determined in accordance with
12 clause (1), shall be multiplied by the amount applicable under
13 subsection (b.2) for the five-year period and the product
14 thereof shall be added to the amount applicable under subsection
15 (b.2) for the five-year period, with the result rounded to the
16 nearest multiple of one ~~hundred (\$100)~~ THOUSAND (\$1,000) ←
17 dollars.

18 (3) The determination required under clause (1) and the
19 calculation of the adjustments required under clause (2) shall
20 be made in the period between October 1 and November 15 of the
21 year following the effective date of this subsection, and
22 between October 1 and November 15 of each successive year.

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

27 (5) 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 clause (1) and the amounts, whether adjusted or unadjusted

1 in accordance with clause (2), at which competitive bidding is
2 required under subsection (a) and written or telephonic price
3 quotations are required under subsection (b.2) for the five-year
4 period beginning the first day of January after publication of
5 the notice.

6 (c) A housing authority shall require as a condition of the
7 award of any contract, pursuant to subsection (a) or (b) of this
8 section, that the contractor give to the Authority any bond
9 (including bonds for the performance of the contract, and for
10 the prompt payment by the contractor for material, supplies,
11 labor, services and equipment) which are prescribed by law for
12 contracts awarded by cities or counties, as the case may be, of
13 the same class as the city or county for which such Authority
14 has been created.

15 (d) Notwithstanding anything to the contrary contained in
16 this act or in any other provision of law, a housing authority
17 may include, in any contract let in connection with a project,
18 stipulations requiring that the contractor and any
19 subcontractors comply with requirements as to minimum wages and
20 maximum hours of labor, and comply with any conditions which the
21 Federal or State Government may have attached to its financial
22 aid of the project.

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

29 (f) Any authority member who votes to unlawfully evade the
30 provisions of this section and who knows that the transaction

1 upon which he so votes is or ought to be a part of a larger
2 transaction and that it is being divided in order to evade the
3 requirements as to advertising for bids commits a misdemeanor of
4 the third degree for each contract entered into as a direct
5 result of that vote.

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

9 Section 3. This act shall take effect immediately.