

## 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,  
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JANUARY 26, 2011

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SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,  
SEPTEMBER 20, 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)~~ THE BASE AMOUNT OF EIGHTEEN THOUSAND FIVE ←  
11 HUNDRED (\$18,500) dollars subject to adjustment under subsection  
12 ~~(b.4)~~ (B.3), it shall be the duty of said Authority to have such ←  
13 work performed pursuant to a contract awarded to the lowest  
14 responsible bidder, after advertisement for bids. Every such  
15 contract shall contain a provision obligating the contractor to  
16 the prompt payment of all material furnished, labor supplied or  
17 performed, rental for equipment employed, and services rendered  
18 by public utilities in or in connection with the prosecution of  
19 the work, whether or not the said material, labor, equipment or  
20 service enter into and become component parts of the work or  
21 improvement contemplated. Such provision shall be deemed to be  
22 included for the benefit of every person, copartnership,  
23 association or corporation who, as subcontractor or otherwise,  
24 has furnished material, supplied or performed labor, rented  
25 equipment or services in or in connection with the prosecution  
26 of the work as aforesaid, and the inclusion thereof in any  
27 contract shall preclude the filing by any such person,  
28 copartnership, association or corporation of any mechanics' lien  
29 claim for such material, labor or rental of equipment.

30 (b) Whenever the estimated cost of any purchase of supplies,

1 materials or equipment or the rental of any equipment, whether  
2 or not the same is to be used in connection with the  
3 construction, erection, installation, completion, alteration,  
4 repair of, or addition to, any project subject to the control of  
5 any Authority, shall exceed [ten thousand (\$10,000) dollars]  
6 ~~twenty five thousand (\$25,000)~~ THE BASE AMOUNT OF EIGHTEEN ←  
7 THOUSAND FIVE HUNDRED (\$18,500) dollars subject to adjustment  
8 under subsection ~~(b.4)~~ (B.3), it shall be the duty of such ←  
9 Authority to have such purchase or rental made pursuant to a  
10 contract awarded to the lowest responsible bidder, after  
11 advertisement for bids, such advertisement to be inserted in a  
12 newspaper of general circulation within the county in which the  
13 Authority operates.

14 (b.1) An authority shall not evade the provisions of  
15 subsection (a) or (b) as to advertising for bids by purchasing  
16 materials or contracting for services piecemeal for the purpose  
17 of obtaining prices under [ten thousand (\$10,000) dollars]  
18 ~~twenty five thousand (\$25,000)~~ THE BASE AMOUNT OF EIGHTEEN ←  
19 THOUSAND FIVE HUNDRED (\$18,500) dollars subject to adjustment  
20 under subsection ~~(b.4)~~ (B.3) upon transactions which should, in ←  
21 the exercise of reasonable discretion and prudence, be conducted  
22 as one transaction amounting to more than [ten thousand  
23 (\$10,000) dollars] ~~twenty five thousand (\$25,000)~~ THE BASE ←  
24 AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED (\$18,500) dollars  
25 subject to adjustment under subsection ~~(b.4)~~ (B.3). This ←  
26 provision is intended to make unlawful the practice of evading  
27 advertising requirements by making a series of purchases or  
28 contracts, each for less than the advertising requirement price,  
29 or by making several simultaneous purchases or contracts, each  
30 below said price, when, in either case, the transactions

1 involved should have been made as one transaction for one price.

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

5 ~~seven thousand (\$7,000) THE BASE AMOUNT OF TEN THOUSAND~~ ←  
6 ~~(\$10,000) dollars subject to adjustment under subsection (b.4)~~ ←

7 ~~(B.3)~~ but are less than the amount requiring advertisement and ←  
8 competitive bidding or, in lieu of price quotations, a

9 memorandum shall be kept on file showing that fewer than three  
10 qualified contractors exist in the market area within which it

11 is practicable to obtain quotations. A written record of  
12 telephonic price quotations shall be made and shall contain at

13 least the date of the quotation, the name of the contractor and  
14 the contractor's representative, the construction,

15 reconstruction, repair, maintenance or work which was the  
16 subject of the quotation and the price. Written price

17 quotations, written records of telephonic price quotations and  
18 memoranda shall be retained for a period of three years.

19 ~~(b.3) Contracts or purchases involving the expenditure of~~ ←  
20 ~~more than ten thousand (\$10,000) dollars but less than twenty~~

21 ~~five thousand (\$25,000) dollars under this section shall be~~  
22 ~~posted on the Authority's Internet website and in the place~~

23 ~~where the Authority normally meets or other conspicuous place~~  
24 ~~for fourteen (14) business days prior to obtaining any bid or~~

25 ~~price quotation for the contract or purchase.~~  
26 ~~(b.4) (1) Every five years, beginning with the year in~~

27 ~~which this subsection becomes applicable to contracts and~~  
28 ~~purchases, the Department of Labor and Industry shall calculate~~

29 ~~the average percentage change in the Consumer Price Index for~~  
30 ~~All Urban Consumers (CPI U) for the United States city average~~

1 ~~for all items as published by the United States Department of~~  
2 ~~Labor, Bureau of Labor Statistics, for the preceding five year~~  
3 ~~period.~~

4 ~~(2) The amount at which competitive bidding is required~~  
5 ~~under subsection (a) and the amount at which written or~~  
6 ~~telephonic price quotations are required under subsection (b.2)~~  
7 ~~shall be adjusted every five years as follows:~~

8 ~~(i) In the case of competitive bidding, the positive~~  
9 ~~percentage change, as determined in accordance with clause (1),~~  
10 ~~shall be multiplied by the amount applicable under subsection~~  
11 ~~(a) for the current year and the product thereof shall be added~~  
12 ~~to the amount applicable under subsection (a) for the five year~~  
13 ~~period, with the result rounded to the nearest multiple of one~~  
14 ~~thousand (\$1,000) dollars.~~

15 ~~(ii) In the case of written or telephonic price quotations,~~  
16 ~~the positive percentage change, as determined in accordance with~~  
17 ~~clause (1), shall be multiplied by the amount applicable under~~  
18 ~~subsection (b.2) for the five year period and the product~~  
19 ~~thereof shall be added to the amount applicable under subsection~~  
20 ~~(b.2) for the five year period, with the result rounded to the~~  
21 ~~nearest multiple of one thousand (\$1,000) dollars.~~

22 ~~(3) The determination required under clause (1) and the~~  
23 ~~calculation of the adjustments required under clause (2) shall~~  
24 ~~be made in the period between October 1 and November 15 of the~~  
25 ~~year following the effective date of this subsection, and~~  
26 ~~between October 1 and November 15 of each successive year.~~

27 ~~(4) The adjusted amounts obtained in accordance with clause~~  
28 ~~(2) shall become effective January 1 for the five year period~~  
29 ~~following the year in which the determination required under~~  
30 ~~clause (1) is made.~~

1 ~~(5) The Department of Labor and Industry shall give notice~~  
2 ~~in the Pennsylvania Bulletin prior to January 1 of each calendar~~  
3 ~~year in which the percentage change determined in accordance~~  
4 ~~with clause (1) and the amounts, whether adjusted or unadjusted~~  
5 ~~in accordance with clause (2), at which competitive bidding is~~  
6 ~~required under subsection (a) and written or telephonic price~~  
7 ~~quotations are required under subsection (b.2) for the five year~~  
8 ~~period beginning the first day of January after publication of~~  
9 ~~the notice.~~

10 (B.3) ADJUSTMENTS TO THE BASE AMOUNTS SPECIFIED UNDER  
11 SUBSECTIONS (A) AND (B) SHALL BE MADE AS FOLLOWS:

12 (1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE THE  
13 PERCENTAGE CHANGE IN THE ALL ITEMS CONSUMER PRICE INDEX FOR ALL  
14 URBAN CONSUMERS (CPI-U) FOR THE UNITED STATES CITY AVERAGE AS  
15 PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF  
16 LABOR STATISTICS FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER  
17 30, 2012, AND FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD  
18 THEREAFTER.

19 (2) IF THE DEPARTMENT DETERMINES THAT THERE IS NO POSITIVE  
20 PERCENTAGE CHANGE, THEN NO ADJUSTMENT TO THE BASE AMOUNTS SHALL  
21 OCCUR FOR THE RELEVANT TIME PERIOD PROVIDED FOR IN THIS  
22 SUBSECTION.

23 (3) (I) IF THE DEPARTMENT DETERMINES THAT THERE IS A  
24 POSITIVE PERCENTAGE CHANGE IN THE FIRST YEAR THAT THE  
25 DETERMINATION IS MADE UNDER PARAGRAPH (1), THE POSITIVE  
26 PERCENTAGE CHANGE SHALL BE MULTIPLIED BY EACH BASE AMOUNT AND  
27 THE PRODUCTS SHALL BE ADDED TO THE BASE AMOUNTS, RESPECTIVELY,  
28 AND THE SUMS SHALL BE PRELIMINARY ADJUSTED AMOUNTS.

29 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO  
30 THE NEAREST ONE THOUSAND DOLLARS (\$1,000), TO DETERMINE THE

1 FINAL ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND  
2 (B).

3 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE  
4 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY  
5 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY  
6 THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS  
7 SHALL BE ADDED TO THE PRELIMINARY ADJUSTED AMOUNT OF THE PRIOR  
8 YEAR TO CALCULATE THE PRELIMINARY ADJUSTED AMOUNTS FOR THE  
9 CURRENT YEAR. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST  
10 ONE THOUSAND DOLLARS (\$1,000) TO DETERMINE THE NEW FINAL  
11 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (B).

12 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS  
13 SUBSECTION SHALL BE MADE IN THE PERIOD BETWEEN OCTOBER 1 AND  
14 NOVEMBER 15 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS  
15 SUBSECTION, AND ANNUALLY BETWEEN OCTOBER 1 AND NOVEMBER 15 OF  
16 EACH YEAR THEREAFTER.

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

21 (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA  
22 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL  
23 PERCENTAGE CHANGE DETERMINED UNDER PARAGRAPH (1) AND THE  
24 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER  
25 PARAGRAPHS (3) AND (4) AT WHICH COMPETITIVE BIDDING IS REQUIRED  
26 UNDER SUBSECTION (A) AND WRITTEN OR TELEPHONIC PRICE QUOTATIONS  
27 ARE REQUIRED UNDER SUBSECTION (B.2), RESPECTIVELY, FOR THE  
28 CALENDAR YEAR BEGINNING THE FIRST DAY OF JANUARY AFTER  
29 PUBLICATION OF THE NOTICE. THE NOTICE SHALL INCLUDE A WRITTEN  
30 AND ILLUSTRATIVE EXPLANATION OF THE CALCULATIONS PERFORMED BY

1 THE DEPARTMENT IN ESTABLISHING THE UNADJUSTED OR FINAL ADJUSTED  
2 BASE AMOUNTS UNDER THIS SUBSECTION FOR THE ENSUING CALENDAR  
3 YEAR.

4 (8) NO ADJUSTMENT TO THE BASE AMOUNTS SPECIFIED UNDER  
5 SUBSECTIONS (A) AND (B) SHALL EXCEED THREE PERCENT OF THE MOST  
6 RECENTLY ADJUSTED BASE AMOUNT.

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

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

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

30 (f) Any authority member who votes to unlawfully evade the



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

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

10 Section 3. This act shall take effect immediately.