

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL****No. 296** Session of  
2011

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INTRODUCED BY EICHELBERGER, SCARNATI, KASUNIC, FOLMER, GORDNER,  
BOSCOLA, ORIE, YAW, RAFFERTY, M. WHITE, D. WHITE, ERICKSON,  
BAKER, ALLOWAY, BRUBAKER, GREENLEAF, FERLO, ROBBINS, VANCE,  
EARLL, SMUCKER, McILHINNEY, PICCOLA AND MENSCH,  
JANUARY 26, 2011

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SENATOR PICOLA, EDUCATION, AS AMENDED, APRIL 5, 2011

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## AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," providing for adjustments based on  
6 Consumer Price Index; and further providing for work to be  
7 done under contract let on bids and exception, for purchase  
8 of supplies, for contracts for construction, repair,  
9 renovation or maintenance, for project contracts and for  
10 powers and duties of institution presidents.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. The act of March 10, 1949 (P.L.30, No.14), known  
14 as the Public School Code of 1949, is amended by adding a  
15 section to read:

16 Section 118. Adjustments Based on Consumer Price Index.--(a)

17 (1) Every five years, beginning with the year in which this  
18 subsection becomes applicable to contracts and purchases, the  
19 Department of Labor and Industry shall calculate the average  
20 percentage change in the Consumer Price Index for All Urban

1 Consumers (CPI-U) for the United States city average for all  
2 items as published by the United States Department of Labor,  
3 Bureau of Labor Statistics, for the preceding five-year period.

4 (2) The amounts at which competitive bidding or written or  
5 telephonic price quotations are required under this act shall be  
6 adjusted every five years as follows:

7 (i) In the case of competitive bidding, the positive  
8 percentage change, as determined in accordance with clause (1),  
9 shall be multiplied by the amount applicable under the provision  
10 requiring competitive bidding for the current five-year period  
11 and the product thereof shall be added to the amount applicable  
12 under the provision requiring competitive bidding for the  
13 current five-year period, with the result rounded to the nearest  
14 multiple of one hundred dollars (\$100).

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 the provision requiring written or telephonic price quotations  
19 for the current five-year period and the product thereof shall  
20 be added to the amount applicable under the provision requiring  
21 written or telephonic price quotations for the current five-year  
22 period, with the result rounded to the nearest multiple of one  
23 hundred dollars (\$100).

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

29 (4) The adjusted amounts obtained in accordance with clause  
30 (2) shall become effective January 1 for the five-year period

1 following the year in which the determination required under  
2 clause (1) is made.

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

11 Section 2. Sections 751(a), (a.1), (b) and (f) and 807.1 of  
12 the act, amended or added May 4, 1990 (P.L.164, No.38), are  
13 amended to read:

14 Section 751. Work to be Done Under Contract Let on Bids;  
15 Exception.--(a) All construction, reconstruction, repairs,  
16 maintenance or work of any nature, including the introduction of  
17 plumbing, heating and ventilating, or lighting systems, upon any  
18 school building or upon any school property, or upon any  
19 building or portion of a building leased under the provisions of  
20 section 703.1, made by any school district, where the entire  
21 cost, value, or amount of such construction, reconstruction,  
22 repairs, maintenance or work, including labor and material,  
23 shall exceed [ten thousand dollars (\$10,000)] twenty-five  
24 thousand dollars (\$25,000), subject to adjustment under section  
25 118, shall be done under separate contracts to be entered into  
26 by such school district with the lowest responsible bidder, upon  
27 proper terms, after due public notice has been given asking for  
28 competitive bids. Whenever a board of school directors shall  
29 approve the use of a prefabricated unit, complete in itself, for  
30 a school building or other proper structure to be erected upon

1 school property, the board of school directors may have prepared  
2 appropriate specifications detailing the size and material  
3 desired in a particular prefabricated unit, including all  
4 utilities such as plumbing, heating and ventilating, and  
5 electrical work, and may advertise for a single bid on all the  
6 work and award the contract therefor to the lowest responsible  
7 bidder: Provided, That if due to an emergency a school plant or  
8 any part thereof becomes unusable competitive bids for repairs  
9 or replacement may be solicited from at least three responsible  
10 bidders, and upon the approval of any of these bids by the  
11 Secretary of Education, the board of school directors may  
12 proceed at once to make the necessary repairs or replacements in  
13 accordance with the terms of said approved bid or bids.

14 (a.1) Written or telephonic price quotations from at least  
15 three qualified and responsible contractors shall be requested  
16 by the board of school directors for all contracts that exceed  
17 [four thousand dollars (\$4,000)] seven thousand dollars  
18 (\$7,000), subject to adjustment under section 118, but are less  
19 than the amount requiring advertisement and competitive bidding,  
20 or, in lieu of price quotations, a memorandum shall be kept on  
21 file showing that fewer than three qualified contractors exist  
22 in the market area within which it is practicable to obtain  
23 quotations. A written record of telephonic price quotations  
24 shall be made and shall contain at least the date of the  
25 quotation, the name of the contractor and the contractor's  
26 representative, the construction, reconstruction, repair,  
27 maintenance or work which was the subject of the quotation and  
28 the price. Written price quotations, written records of  
29 telephonic price quotations and memoranda shall be retained for  
30 a period of three years.

1 (b) The board of school directors in any school district may  
2 perform any construction, reconstruction, repairs, or work of  
3 any nature, where the entire cost or value, including labor and  
4 material, is less than [five thousand dollars (\$5000)] seven  
5 thousand dollars (\$7,000), subject to adjustment under section  
6 118, by its own maintenance personnel. The board of school  
7 directors in any school district may authorize the secretary of  
8 the board or other executive to award contracts for  
9 construction, reconstruction, repairs, or work of any nature,  
10 where the entire cost or value, including labor and material,  
11 [is ten thousand dollars (\$10,000)] subject to adjustment under  
12 section 118, is twenty-five thousand dollars (\$25,000) or less,  
13 without soliciting competitive bids, subject, however, to the  
14 provisions of subsection (a.1).

15 \* \* \*

16 (f) No board of school directors shall evade the provisions  
17 of this section as to advertising for bids or purchasing  
18 materials or contracting for services piecemeal for the purpose  
19 of obtaining prices under [ten thousand dollars (\$10,000)]  
20 twenty-five thousand dollars (\$25,000), subject to adjustment  
21 under section 118, upon transactions which should, in the  
22 exercise of reasonable discretion and prudence, be conducted as  
23 one transaction amounting to more than [ten thousand dollars  
24 (\$10,000)] twenty-five thousand dollars (\$25,000), subject to  
25 adjustment under section 118. This provision is intended to make  
26 unlawful the practice of evading advertising requirements by  
27 making a series of purchases or contracts each for less than the  
28 advertising requirement price, or by making several simultaneous  
29 purchases or contracts each below said price, when in either  
30 case the transaction involved should have been made as one

1 transaction for one price.

2 Section 807.1. Purchase of Supplies.--(a) All furniture,  
3 equipment, textbooks, school supplies and other appliances for  
4 the use of the public schools, costing [ten thousand dollars  
5 (\$10,000)], subject to adjustment under section 118, twenty-five  
6 thousand dollars (\$25,000) or more shall be purchased by the  
7 board of school directors only after due advertisement as  
8 hereinafter provided. Supplies, subject to adjustment under  
9 section 118, costing [ten thousand dollars (\$10,000)] twenty-  
10 five thousand dollars (\$25,000) or more shall be purchased by  
11 the board of school directors only after public notice has been  
12 given by advertisement once a week for three (3) weeks in not  
13 less than two (2) newspapers of general circulation. In any  
14 district where no newspaper is published, said notice may, in  
15 lieu of such publication, be posted in at least five (5) public  
16 places.

17 (a.1) Written or telephonic price quotations from at least  
18 three qualified and responsible vendors shall be requested by  
19 the board of school directors for all purchases of supplies that  
20 exceed [four thousand dollars (\$4,000)] seven thousand dollars  
21 (\$7,000), subject to adjustment under section 118, but are less  
22 than the amount requiring advertisement and competitive bidding,  
23 or, in lieu of price quotations, a memorandum shall be kept on  
24 file showing that fewer than three qualified vendors exist in  
25 the market area within which it is practicable to obtain  
26 quotations. A written record of telephonic price quotations  
27 shall be made and shall contain at least the date of the  
28 quotation, the name of the vendor and the vendor's  
29 representative, the supplies which were the subject of the  
30 quotation and the price of the supplies. Written price

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

3 (b) The board of school directors shall accept the bid of  
4 the lowest responsible bidder, kind, quality, and material being  
5 equal, but shall have the right to reject any and all bids, or  
6 select a single item from any bid. The board of school directors  
7 in any district may authorize or appoint the secretary of the  
8 board or other executive as purchasing agent for the district,  
9 with authority to purchase supplies costing less than [ten  
10 thousand dollars (\$10,000)] twenty-five thousand dollars  
11 (\$25,000), subject to adjustment under section 118.

12 (c) The following shall be exempt from the above provisions:  
13 maps, music, globes, charts, educational films, filmstrips,  
14 prepared transparencies and slides, pre-recorded magnetic tapes  
15 and disc recordings, textbooks, games, toys, prepared kits,  
16 flannel board materials, flash cards, models, projectuals and  
17 teacher demonstration devices necessary for school use.

18 (d) No board of school directors shall evade the provisions  
19 of this section as to advertising for bids or purchasing  
20 materials piecemeal for the purpose of obtaining prices under  
21 [ten thousand dollars (\$10,000)] twenty-five thousand dollars  
22 (\$25,000), subject to adjustment under section 118, upon  
23 transactions which should, in the exercise of reasonable  
24 discretion and prudence, be conducted as one transaction  
25 amounting to more than [ten thousand dollars (\$10,000)] twenty-  
26 five thousand dollars (\$25,000), subject to adjustment under  
27 section 118. This provision is intended to make unlawful the  
28 practice of evading advertising requirements by making a series  
29 of purchases or contracts each for less than the advertising  
30 requirement price, or by making several simultaneous purchases

1 or contracts each below said price, when in either case the  
2 transaction involved should have been made as one transaction  
3 for one price.

4 Section 3. Section 1913-B.1(c) of the act, added December 9,  
5 2002 (P.L.1472, No.187), is amended to read:

6 Section 1913-B.1. Contracts for Construction, Repair,  
7 Renovation or Maintenance.--\* \* \*

8 (c) All contracts, other than contracts for the retention of  
9 architects and engineers, authorized by this section which  
10 exceed [ten thousand dollars (\$10,000) or any larger amount as  
11 otherwise provided for in 62 Pa.C.S. (relating to procurement)]  
12 twenty-five thousand dollars (\$25,000), subject to adjustment  
13 under section 118, shall be advertised in the manner provided by  
14 law and competitively bid and awarded to the lowest responsible  
15 bidder. In case of emergencies and notwithstanding any other  
16 provision of this section to the contrary, the board of trustees  
17 may make or authorize others to make an emergency procurement  
18 whenever a threat exists to public health, welfare or safety or  
19 circumstances outside the control of the college and creates an  
20 urgency of need which does not permit the delay involved in  
21 using more formal competitive methods. Whenever practical, in  
22 the case of a procurement of a supply, at least two (2) bids  
23 shall be solicited. A written determination of the basis for the  
24 emergency and for the selection of the particular contractor  
25 shall be included in the contract file.

26 \* \* \*

27 Section 4. Sections 2003-A.1(c) and 2010-A(10) of the act,  
28 amended April 27, 1998 (P.L.270, No.46), are amended to read:

29 Section 2003-A.1. Project Contracts.--\* \* \*

30 (c) All contracts, other than contracts for the retention of



1 architects and engineers, authorized by this section which  
2 exceed [ten thousand dollars (\$10,000)] twenty-five thousand  
3 dollars (\$25,000), subject to adjustment under section 118,  
4 shall be advertised in the manner provided by law and  
5 competitively bid and awarded to the lowest responsible bidder.  
6 In case of emergencies and notwithstanding any other provision  
7 of this section to the contrary, the chancellor may make or  
8 authorize others to make an emergency procurement whenever a  
9 threat exists to public health, welfare or safety or  
10 circumstances outside the control of the State system and  
11 creates an urgency of need which does not permit the delay  
12 involved in using more formal competitive methods. Whenever  
13 practical, in the case of a procurement of a supply, at least  
14 two (2) bids shall be solicited. A written determination of the  
15 basis for the emergency and for the selection of the particular  
16 contractor shall be included in the contract file.

17 \* \* \*

18 Section 2010-A. Power and Duties of Institution  
19 Presidents.--The president of each institution shall be  
20 appointed by the board. The president shall be the chief  
21 executive officer of that institution. He shall have the right  
22 to attend all meetings of the council of that institution and  
23 shall have the right to speak on all matters before the council  
24 but not to vote. Subject to the stated authority of the board  
25 and the council, each president shall have the following powers  
26 and duties:

27 \* \* \*

28 (10) Within the limitations of the operating budget and  
29 other available funds in accordance with the procedures  
30 established by the board and with the approval of the local

1 council, to negotiate and award all contracts for equipment,  
2 services and supplies in excess of a cost of [ten thousand  
3 dollars (\$10,000)] twenty-five thousand dollars (\$25,000),  
4 subject to adjustment under section 118, on a competitive bid  
5 basis and to purchase instructional, educational,  
6 extracurricular, technical, administrative, custodial and  
7 maintenance equipment and supplies not in excess of a cost of  
8 [ten thousand dollars (\$10,000)] twenty-five thousand dollars  
9 (\$25,000), subject to adjustment under section 118, without  
10 competitive bidding, except that such items shall not be bought  
11 in series to avoid the dollar ceiling.

12 \* \* \*

13 Section 5. This act shall apply to contracts and purchases  
14 advertised on or after January 1 of the year following the  
15 effective date of this section.

16 Section 6. This act shall take effect in 60 days.