

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 583 Session of  
2013

INTRODUCED BY EICHELBERGER, GREENLEAF, FOLMER, ALLOWAY, BAKER,  
GORDNER, WHITE, BRUBAKER, PILEGGI, VANCE, HUTCHINSON, FERLO,  
VULAKOVICH, SCARNATI AND SCHWANK, MARCH 1, 2013

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,  
APRIL 8, 2013

## AN ACT

1 Amending the act of August 23, 1967 (P.L.251, No.102), entitled,  
2 as amended, "An act providing for the incorporation as public  
3 instrumentalities of the Commonwealth and as bodies corporate  
4 and politic of industrial and commercial development  
5 authorities for municipalities, counties and townships;  
6 prescribing the rights, powers and duties of such authorities  
7 hereafter incorporated; authorizing such authorities to  
8 acquire, by gift or purchase, to construct, improve and  
9 maintain industrial, specialized, or commercial development  
10 projects including projects for the elimination or prevention  
11 of blight and the control of air and water pollution, and to  
12 borrow money and issue bonds therefor; providing for the  
13 payment of such bonds and giving security therefor, and  
14 prescribing the rights of the holders of such bonds;  
15 authorizing the lease or sale of industrial, specialized, or  
16 commercial development projects to industrial, specialized,  
17 or commercial enterprises; authorizing any county,  
18 municipality or township to transfer or convey to such  
19 authorities, any facilities or property available for  
20 industrial, specialized, or commercial development projects;  
21 exempting the property and securities of such authorities  
22 from taxation; authorizing such authorities to enter into  
23 contracts with and to accept grants from the Federal  
24 Government or any agency thereof; and providing for approval  
25 by the Secretary of Commerce of the proceedings relating to  
26 industrial, specialized, or commercial development projects  
27 of such authorities," further providing for competition in  
28 award of contracts.

29 The General Assembly of the Commonwealth of Pennsylvania  
30 hereby enacts as follows:

1       Section 1.   Section 12 of the act of August 23, 1967  
2   (P.L.251, No.102), known as the Economic Development Financing  
3   Law, amended December 17, 1993 (P.L.490, No.74), is amended to  
4   read:

5       Section 12.   Competition in Award of Contracts.--(a)   All  
6   construction, reconstruction, repairs or work of any nature made  
7   directly by any authority where the entire cost, value or amount  
8   of such construction, reconstruction, repairs or work, including  
9   labor and materials, shall exceed [ten thousand dollars  
10   (\$10,000)] the base amount AND SUBSEQUENT ADJUSTMENTS       <--  
11   established pursuant to 53 Pa.C.S. § 5614 (relating to  
12   competition in award of contracts), except construction,  
13   reconstruction, repairs or work done by employes of said  
14   authority, or by labor supplied under agreement with any Federal  
15   or State agency, with supplies and materials purchased as  
16   hereinafter provided, shall be done only under contract or  
17   contracts to be entered into by the authority with the lowest  
18   responsible bidder upon proper terms, after due public notice  
19   has been given asking for competitive bids as hereinafter  
20   provided: Provided, however, That where the authority is the  
21   legal title holder to the project, and there exists an agreement  
22   whereby a project user or project applicant will or can acquire  
23   legal title to the said project under the then certain terms and  
24   conditions, contracts for construction, reconstruction, repair,  
25   or work of any nature, or purchase of machinery and equipment,  
26   may be awarded by the project user or project applicant without  
27   regard to the limitations of this section 12: And provided  
28   further, however, That for the purposes of this section 12,  
29   "construction" or "acquisition" shall not include acquisition of  
30   property for project purposes. No contract shall be entered into

1 between an authority and a contractor for construction of any  
2 project or portion thereof, unless the contractor shall give an  
3 undertaking with a sufficient surety or sureties approved by the  
4 authority, and in an amount fixed by the authority, for the  
5 faithful performance of the contract. All contracts of surety  
6 shall provide among other things that the contractor entering  
7 into a contract with the authority will pay for all materials  
8 furnished and services rendered for the performance of the  
9 contract, and that any person or corporation furnishing such  
10 materials or rendering such services may maintain an action to  
11 recover for the same against the obligor in the undertaking, as  
12 though such person or corporation was named therein, provided  
13 the action is brought within one year after the time the cause  
14 of action accrued.

15 (b) All supplies and materials costing [ten thousand dollars  
16 (\$10,000) or more] in excess of the base amount AND SUBSEQUENT <--  
17 ADJUSTMENTS established pursuant to 53 Pa.C.S. § 5614 to be  
18 purchased directly by an authority shall be purchased only after  
19 due advertisement as hereinafter provided. The authority shall  
20 accept the lowest bid or bids, kind, quality and material being  
21 equal, but the authority shall have the right to reject any or  
22 all bids or select a single item from any bid. The provisions as  
23 to bidding shall not apply to the purchase of patented and  
24 manufactured products offered for sale in a noncompetitive  
25 market or solely by a manufacturer's authorized dealer.

26 (c) The terms "advertisement" or "due public notice"  
27 wherever used in this section, shall mean a notice published at  
28 least ten days before the award of any contract, in a newspaper  
29 of general circulation published in the municipality where the  
30 authority has its principal office, and if no newspaper is

published therein then by publication in a newspaper in the county where the authority has its principal office: Provided, That such notice may be waived where the authority determines an emergency exists, and such supplies and materials must be immediately purchased by the said authority.

(d) No member of the authority or officer or employe thereof shall, either directly or indirectly, be a party to or be in any manner interested in any contract or agreement with the authority for any matter, cause or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such authority. If any contract or agreement shall be made in violation of the provisions of this section the same shall be null and void and no action shall be maintained thereon against such authority.

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

(f) The provisions of this section 12 shall not apply in respect of the construction of any project or the purchase of any equipment, materials or supplies which the authority may have had transferred to it upon completion, by purchase or otherwise, by a project applicant or project user or any other person or corporation.

(g) Notwithstanding any of the foregoing, all construction, reconstruction, repairs or work of any nature with regard to

1 publicly owned infrastructure facilities, where the entire cost,  
2 value or amount of such construction, reconstruction, repairs or  
3 work, including labor and materials, shall exceed [ten thousand  
4 dollars (\$10,000)] the base amount AND SUBSEQUENT ADJUSTMENTS <--  
5 established pursuant to 53 Pa.C.S. § 5614, shall be done only  
6 under contract or contracts to be entered into by the authority  
7 or the owner of the infrastructure facility, with the lowest  
8 responsible bidder upon proper terms, after due public notice  
9 has been given asking for competitive bids as set forth in this  
10 section or other applicable law.

11 Section 2. This act shall take effect immediately.