

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

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 5, 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

1 hereby enacts as follows:

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

6 Section 12. Competition in Award of Contracts.--(a) All
7 construction, reconstruction, repairs or work of any nature made
8 directly by any authority where the entire cost, value or amount
9 of such construction, reconstruction, repairs or work, including
10 labor and materials, shall exceed [ten thousand dollars
11 (\$10,000)] the base amount and subsequent adjustments
12 established pursuant to 53 Pa.C.S. § ~~5614~~ 5614(A)(1), (B) AND <--
13 (C.1) (relating to competition in award of contracts), except
14 construction, reconstruction, repairs or work done by employes
15 of said authority, or by labor supplied under agreement with any
16 Federal or State agency, with supplies and materials purchased
17 as hereinafter provided, shall be done only under contract or
18 contracts to be entered into by the authority with the lowest
19 responsible bidder upon proper terms, after due public notice
20 has been given asking for competitive bids as hereinafter
21 provided: Provided, however, That where the authority is the
22 legal title holder to the project, and there exists an agreement
23 whereby a project user or project applicant will or can acquire
24 legal title to the said project under the then certain terms and
25 conditions, contracts for construction, reconstruction, repair,
26 or work of any nature, or purchase of machinery and equipment,
27 may be awarded by the project user or project applicant without
28 regard to the limitations of this section 12: And provided
29 further, however, That for the purposes of this section 12,
30 "construction" or "acquisition" shall not include acquisition of

1 property for project purposes. No contract shall be entered into
2 between an authority and a contractor for construction of any
3 project or portion thereof, unless the contractor shall give an
4 undertaking with a sufficient surety or sureties approved by the
5 authority, and in an amount fixed by the authority, for the
6 faithful performance of the contract. All contracts of surety
7 shall provide among other things that the contractor entering
8 into a contract with the authority will pay for all materials
9 furnished and services rendered for the performance of the
10 contract, and that any person or corporation furnishing such
11 materials or rendering such services may maintain an action to
12 recover for the same against the obligor in the undertaking, as
13 though such person or corporation was named therein, provided
14 the action is brought within one year after the time the cause
15 of action accrued.

16 (b) All supplies and materials costing [ten thousand dollars
17 (\$10,000) or more] in excess of the base amount and subsequent
18 adjustments established pursuant to 53 Pa.C.S. § 5614 5614(A) <--
19 (1), (B) AND (C.1) to be purchased directly by an authority
20 shall be purchased only after due advertisement as hereinafter
21 provided. The authority shall accept the lowest bid or bids,
22 kind, quality and material being equal, but the authority shall
23 have the right to reject any or all bids or select a single item
24 from any bid. The provisions as to bidding shall not apply to
25 the purchase of patented and manufactured products offered for
26 sale in a noncompetitive market or solely by a manufacturer's
27 authorized dealer.

28 (c) The terms "advertisement" or "due public notice"
29 wherever used in this section, shall mean a notice published at
30 least ten days before the award of any contract, in a newspaper

1 of general circulation published in the municipality where the
2 authority has its principal office, and if no newspaper is
3 published therein then by publication in a newspaper in the
4 county where the authority has its principal office: Provided,
5 That such notice may be waived where the authority determines an
6 emergency exists, and such supplies and materials must be
7 immediately purchased by the said authority.

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

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

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

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