

No. 2011-86

AN ACT

HB 284

Amending the act of August 9, 1955 (P.L.323, No.130), entitled, as amended, "An act relating to counties of the first, third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto; relating to imposition of excise taxes by counties, including authorizing imposition of an excise tax on the rental of motor vehicles by counties of the first class; and providing for regional renaissance initiatives," in contracts, further providing for commissioners sole contractors for county, for contract procedures, terms and bonds and advertising for bids and for evasion of advertising requirements; and, in grounds and buildings, further providing for bids for plumbing, heating, ventilating, electrical work, elevators and moving stairs.

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

Section 1. Sections 1801 and 1802(a) and (b) of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, amended December 22, 2000 (P.L.1019, No.142), are amended to read:

Section 1801. Commissioners Sole Contractors for County.—(a) The county commissioners shall contract for and purchase all services referred to in section five hundred eight and personal property for county officers and agencies. All contracts and purchases not in excess of **[ten thousand dollars (\$10,000)]** *the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under subsection (b.1)*, shall be by note or memorandum, in writing, signed by the county commissioners, or their designee. A copy of all such notes and memorandums and all written contracts shall be filed in the office of the controller, if any, and, if not, then with the chief clerk of the commissioners.

(b) Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts **[that exceed four thousand dollars (\$4,000)]** *in excess of the base amount of ten thousand dollars (\$10,000), subject to adjustment under subsection (b.1)*, but are less than the amount requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

(b.1) Adjustments to the base amounts specified under subsections (a) and (b) shall be made as follows:

(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban

Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending September 30, 2012, and for each successive twelve-month period thereafter.

(2) If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period provided for in this subsection.

(3) (i) If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest one hundred dollars (\$100) to determine the final adjusted base amounts for purposes of subsections (a) and (b).

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest one hundred dollars (\$100) to determine the new final adjusted base amounts for purposes of subsections (a) and (b).

(5) The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

(7) The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which competitive bidding is required under subsection (a) and written or telephonic price quotations are required under subsection (b), respectively, for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this subsection for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed three per centum.

(c) The commissioners shall, where possible, anticipate the needs of the various officers, agencies and operations of the county and endeavor to purchase in wholesale quantities, where practicable and where savings could be achieved thereby. The commissioners may make contracts and purchases for all purposes expressly or impliedly authorized by law.

Section 1802. Contract Procedures; Terms and Bonds; Advertising for Bids.—(a) All contracts for services and personal property where the *base* amount thereof exceeds the sum of **[ten thousand dollars (\$10,000)]** *eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 1801(b.1)*, shall be written and shall, except as otherwise hereinafter specified, be made by advertising for bids.

(b) Contracts or purchases in excess of **[ten thousand dollars (\$10,000)]** *the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 1801(b.1)*, except those hereinafter mentioned and except as provided by the act of October 27, 1979 (P.L.241, No.78), entitled "An act authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received," shall not be made except with and from the lowest responsible and responsive bidder submitting a bid in conformity with the specifications approved by the board of commissioners for the contract or purchase, after due notice in one newspaper of general circulation, published or circulating in the county, at least two times at intervals of not less than three days where daily newspapers of general circulation are employed for such publication, or in case weekly newspapers are employed then the notice shall be published once a week for two successive weeks. The first advertisement shall be published not less than ten days prior to the date fixed for the opening of bids. The requirements of this subsection need not be followed in cases of emergency, but in such cases the actual emergency shall be declared and stated by resolution of the commissioners.

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Section 2. Sections 1803 and 2317 of the act, amended July 10, 1990 (P.L.379, No.89), are amended to read:

Section 1803. Evasion of Advertising Requirements.—(a) No commissioner or commissioners shall evade the provisions of section one thousand eight hundred two of this act, as to advertising for bids or purchasing or contracting for services and personal properties piece-meal, for the purpose of obtaining prices under **[ten thousand dollars (\$10,000)]** *the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 1801(b.1)*, upon transactions which should in the exercise of reasonable discretion and prudence be conducted as one transaction amounting to more than **[ten thousand dollars (\$10,000)]** *the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 1801(b.1)*. This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price, or by making several simultaneous purchases or contracts each below said price, when in either case the transaction involved should have been made as one transaction for one price. Any county commissioners who so vote in violation of this provision and who know that the transaction upon which they so vote is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids shall be, jointly and severally, subject to surcharge for any loss sustained. Wherever it shall appear that a commissioner may have voted in

violation of this section, but the purchase or contract on which he so voted was not approved by the board of county commissioners, this section shall be inapplicable.

(b) Any county commissioner who votes to unlawfully evade the provisions of section one thousand eight hundred two of this act and who knows that the transaction upon which he so votes is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids commits a misdemeanor of the third degree for each contract entered into as a direct result of that vote. This penalty shall be in addition to any surcharge which may be assessed pursuant to subsection (a).

Section 2317. Separate Bids for Plumbing, Heating, Ventilating, Electrical Work, Elevators and Moving Stairs.—In the preparation of specifications for the erection, construction and alteration of any public building, when the entire cost of such work shall exceed **[ten thousand dollars (\$10,000)]** *the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 1801(b.1)*, the architect, engineer or other person preparing such specifications shall prepare only the following separate specifications: (1) plumbing, (2) heating, (3) ventilating, (4) electrical work, (5) elevators and moving stairs, and (6) one complete set of specifications for all the other work to be done in such erection, construction and alteration. The board of commissioners shall receive separate bids upon each of the said branches of work and award the contract for the same to the lowest responsible bidder for each of said branches, including the balance of the work in addition to the plumbing, heating, ventilating and electrical work, and elevators and moving stairs. Where it is desired to install an air conditioning unit, the heating and ventilating so involved may be regarded as one branch of work having only one set of specifications, and bids may be received and a contract awarded thereon, as hereinbefore provided.

Section 3. This act shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of this section.

Section 4. This act shall take effect immediately.

APPROVED—The 3rd day of November, A.D. 2011

TOM CORBETT