

No. 2011-89

AN ACT

HB 290

Amending the act of July 28, 1953 (P.L.723, No.230), entitled, as amended, "An act relating to counties of the second class and second class A; amending, revising, consolidating and changing the laws relating thereto," in preliminary provisions, providing for adjustments based on Consumer Price Index relating to contracts and purchases; in sheriff and coroner, providing for chief deputy in counties of the second class, for deputies and clerks in counties of the second class and for public list of applicants for deputy sheriff in counties of the second class; and further providing for sheriff's employees and counties of the second class; in contracts, further regulating contracts and purchases; in grounds, property and buildings, further providing for separate specifications and contracts for certain items; and, in sports and exhibition authority, further providing for competition in award of contracts.

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

Section 1. The act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, is amended by adding sections to read:

Section 112. Adjustments Based on Consumer Price Index.—(a) Adjustments to the base amounts 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.

(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.

(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 or written or telephonic price quotations are required 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 cent.*

Section 1203.1. Chief Deputy in Counties of the Second Class.—In counties of the second class, the sheriff of the county shall appoint in accordance with section 1216, by commission duly recorded in the Department of Real Estate, a chief deputy, whose appointment shall be revocable by the sheriff at pleasure on recording in said department a signed revocation thereof. The chief deputy, during his continuance in office, shall have full power and authority to perform any duty incumbent upon such sheriff with like effect in law as if such official act had been done by the sheriff in person, regardless of the ability or temporary disability of such sheriff to act while such sheriff continues in office. Nothing in this section shall operate to relieve such sheriff or his sureties from liability upon their official bond.

Section 1205.1. Deputies and Clerks in Counties of the Second Class.—In counties of the second class, the sheriff of the county may appoint in accordance with section 1216, such deputies and clerks as may be necessary to properly transact the business of his office.

Section 1209.1. Public List of Applicants for Deputy Sheriff in Counties of the Second Class.—In counties of the second class, the sheriff shall, from time to time, prepare a list of the names of all persons who have applied for appointment as deputy sheriff and who meet the qualifications hereinbefore prescribed. Such list shall be posted in a public place for a period of not less than ten (10) days and thereafter shall be filed in the Department of Court Records - civil division. No deputies shall be appointed by the sheriff whose names do not appear on said list.

Section 2. Section 1216 of the act, added January 27, 1998 (P.L.1, No.1), is amended to read:

Section 1216. Sheriff's Employes, Counties of Second Class.—(a) Appointment and promotion of deputies and other employes in the office of sheriff of a county of the second class shall be made in the manner provided

by the act of May 31, 1974 (P.L.296, No.94), entitled "An act providing for the appointment, promotion, reduction in rank, suspension, furlough, discharge and reinstatement of deputy sheriffs in counties of the second class; extending civil service coverage to such deputies; and providing penalties," except as otherwise provided in this section.

(b) Whenever a vacancy is likely to occur or is to be filled in a permanent position in the office of sheriff, the sheriff shall submit to the **[civil service commission] department of human resources** a statement indicating the position to be filled. The **[civil service commission] department of human resources** shall thereupon certify to the sheriff the names of the three eligibles willing to accept appointment who are highest, according to the results of the written examination, on the appropriate promotion list or employment list, whichever is in existence. If there are less than three eligibles on appropriate eligible lists who are willing to accept appointment, the **[civil service commission] department of human resources** shall certify all the names on these lists. If upon inquiry by the **[civil service commission] department of human resources or appropriate authority** any person on any promotion or employment list is found to be not available for promotion or appointment, the person's name shall not for the time being be considered among the names from which a promotion or appointment is to be made.

(c) Appointees shall be selected for each existing vacancy from the eligible list in the order of names of the three persons thereon who have received the highest average on the written examination. Examinations shall be administered for positions of the rank of **[captain] lieutenant** and below, and **[appointments shall be made in the order of names of] interviews shall be conducted with** the three persons who have received the highest average. **Appointments shall be made from among the three persons who received the highest average combined score of the examination and interview.**

(d) Civil service examinations to test applicants shall relate to such matters and include such inquiries as will fairly test the merits and fitness of the persons examined to discharge the duties of employment.

(e) Probationary appointments to positions in the force may, notwithstanding section 6 of the act of May 31, 1974 (P.L.296, No.94), be terminated, for cause, prior to completion of the nine-month probationary period.

(f) Notwithstanding the provisions of section 1(c) of the act of May 31, 1974 (P.L.296, No.94), all positions of the rank of **[captain] lieutenant** and below shall be classified as competitive, **thereby extending civil service coverage to such lieutenants in the applicable bargaining unit.** Persons holding positions of **[captain] lieutenant** or below on the effective date of this section shall continue to occupy those positions **but shall fulfill the requirements of any future promotions on and after the effective date of this amendment.** New openings for a vacancy in the position of **[captain] lieutenant** and below shall be classified as competitive on and after the effective date of this section.

(g) In no case shall an applicant for promotion **to the position of sergeant** in the sheriff's office be considered until the applicant shall have first served

three years in the sheriff's [department] *office as a deputy sheriff*. No member of the sheriff's office shall be eligible to take any promotional examination *for the position of sergeant* until after serving three (3) years in the sheriff's office *as a deputy sheriff*. *No member of the sheriff's office shall be eligible to take a promotional examination for the position of lieutenant unless the member holds the position of sergeant in the sheriff's office*. Each member of the sheriff's [department] *office* shall have his examination mark or grade increased by an additional one-half point for each year he served in the sheriff's [department] *office*, but such additional points shall not exceed ten points. *Points shall be added to the mark or grade of only those members passing the examination.*

(h) All applicants for examination shall undergo a physical examination which shall be conducted under the supervision of a doctor of medicine. No person shall be eligible for appointment until a doctor certifies to the [commission] *department of human resources or appropriate authority* that the applicant is free from any [bodily or mental defects, deformity or disease that might incapacitate] *physical or mental conditions which would preclude* him or her from the discharge of the duties of the position desired in the sheriff's [department] *office*.

Section 3. Section 2001(a) and (d) of the act, amended November 30, 2004 (P.L.1439, No.186), are amended to read:

Section 2001. County Commissioners to Make Contracts.—The County Commissioners may make contracts for lawful purposes and for the purposes of carrying into execution the provisions of this section and the laws of the Commonwealth.

(a) Except as provided in subsection (a.1), all 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 112*, shall be in writing and, 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 meeting specifications, after due notice in at least one newspaper of general circulation, published or circulating in the county at least two (2) times, at intervals of not less than three (3) 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 (2) successive weeks. The first advertisement shall be published not less than ten (10) days prior to the date fixed for the opening of bids.

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(d) The contracts or purchases made by the commissioners involving an expenditure of over [ten thousand dollars (\$10,000)] *the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 112*, which shall not require advertising or bidding as hereinbefore provided are as follows:

(1) Those for maintenance, repairs or replacements for water, electric light, or other public works: Provided, That they do not constitute new

additions, extensions or enlargements of existing facilities and equipment. Security may be required by the county commissioners as in other cases of work done.

(2) Those made for improvements, repairs and maintenance of any kind made or provided by the county through its own employes. This paragraph shall not apply to construction materials used in a street improvement.

(3) Those where particular types, models or pieces of new equipment, articles, apparatus, appliances, vehicles or parts thereof are desired by the county commissioners, which are patented and manufactured products or copyrighted products.

(4) Those involving any policies of insurance or surety company bonds, those made for public utility service and electricity, natural gas or telecommunication services: Provided, That, in the case of utilities not under tariffs on file with the Pennsylvania Public Utility Commission, contracts made without advertising and bidding shall be made only after receiving written or telephonic price quotations from at least three (3) qualified and responsible contractors, or in lieu of price quotations a memorandum shall be kept on file showing that fewer than three (3) 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 contain at least the date of the quotation, the name of the contractor and the contractor's representative.

(5) Those involving personal or professional services, including, but not limited to, services of members of the medical or legal profession, registered architects, engineers, certified public accountants or other personal services involving professional expertise.

(6) Those involving tangible client services provided by nonprofit agencies. For the purposes of this clause, the term "tangible client services" shall mean congregate meals, home-delivered meals, transportation and chore services provided through area agencies on aging.

(6.1) Those involving contracts entered into by nonprofit cooperative hospital service associations for hospitals and nursing homes which are part of the institutional district or which are owned by the county, operated by the county or affiliated with the county by the purchasing of or participating in contracts for materials, supplies and equipment.

(7) Those involving the purchase of milk.

(8) Those made with any public body, including, but not limited to, the sale, lease or loan of any supplies or materials to the county by a public body, provided that the price thereof shall not be in excess of that fixed by the public body. The requirements of 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) shall not apply when a county purchases cooperatively with another public body which has entered into a contract for supplies or materials. As used in this paragraph, "public body" shall mean any of the following:

(i) the Federal Government;

(ii) the Commonwealth of Pennsylvania;

(iii) any other state;

(iv) a political subdivision, local or municipal authority or other similar local entity of the Commonwealth or any other state; or

(v) an agency of the Federal Government, the Commonwealth or any other state.

(9) Those exclusively involving construction management services.

(10) Those involving computer software.

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Section 4. Section 2517(a) of the act, amended December 9, 2002 (P.L.1383, No.170), is amended to read:

Section 2517. Separate Specifications and Contracts for Certain Items.—

(a) 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 112*, the architect, engineer or other person preparing such specifications shall prepare separate specifications for the plumbing, heating, ventilating and electrical work. 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.

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Section 5. Section 2511-A(a), (b), (b.1) and (h) of the act, added October 30, 2000 (P.L.616, No.85), are amended to read:

Section 2511-A. Competition in Award of Contracts.—(a) All construction, reconstruction, repairs or work of any nature made by any Authority, where the entire cost, value or amount of such construction, reconstruction, repairs or work, including labor and materials, shall exceed **[ten thousand dollars (\$10,000)]** *the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 112*, except construction, reconstruction, repairs or work done by employes of said Authority or by labor supplied under agreement with any Federal or State agency with supplies and materials purchased, as hereinafter provided, shall be done only under contract or contracts to be entered into by the Authority with the lowest responsible bidder upon proper terms, after due public notice has been given asking for competitive bids hereinafter provided. No contract shall be entered into for construction or improvement or repair of any project or portion thereof unless the contractor shall give an undertaking, with a sufficient surety or sureties approved by the Authority and in an amount fixed by the Authority, for the faithful performance of the contract. All such contracts shall provide, among other things, that the person or corporation entering into such contract with the Authority will pay for all materials furnished and services rendered for the performance of the contract and that any person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obligor in the undertaking as though such person or corporation was named therein, provided the action is brought within one (1) year after the time the cause of action accrued. Nothing in this section shall be construed to limit the power of the Authority to construct, repair or improve any project or portion thereof or any addition, betterment or extension thereto directly by the officers, agents and employes of the Authority or otherwise than by contract.

(b) All supplies and materials costing **[ten thousand dollars (\$10,000)]** *the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 112*, or more shall be purchased only after due advertisement as hereinafter provided. The Authority shall accept the lowest bid or bids, kinds, quality and material being equal, but the Authority shall have the right to reject any or all bids or select a single item from any bid. The provisions as to bidding shall not apply to the purchase of patented and manufactured products offered for sale in a non-competitive market or solely by a manufacturer's authorized dealer.

(b.1) Written or telephonic price quotations from at least three (3) qualified and responsible contractors shall be requested for all contracts that exceed **[four thousand dollars (\$4,000)]** *the base amount of ten thousand dollars (\$10,000), subject to adjustment under section 112*, 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 (3) 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 (3) years.

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(h) An Authority shall not evade the provisions of this section as to advertising for bids or purchasing materials or contracting for services piecemeal 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 112*, 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 112*. 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.

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Section 6. 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 7. This act shall take effect as follows:

(1) The amendment or addition of sections 1203.1, 1205.1, 1209.1 and 1216 of the act shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

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

TOM CORBETT