

No. 170

AN ACT

SB 195

Amending the act of June 23, 1931 (P. L. 932), entitled "An act relating to cities of the third class; and amending, revising, and consolidating the law relating thereto," further regulating contracts, advertising, bids, purchases and bonds for the protection of labor and materialmen.

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

Section 1. Subsections (a) and (b) and the first paragraph of subsection (d) of section 1901, act of June 23, 1931 (P. L. 932), known as "The Third Class City Code," reenacted and amended June 28, 1951 (P. L. 662), and amended August 4, 1959 (P. L. 596) and September 17, 1959 (P. L. 906) are amended to read:

Section 1901. Power to Make Contracts; Regulations Concerning Contracts.—(a) Each city may make contracts for carrying into execution the provisions of this act and the laws of the Commonwealth. The council shall, by ordinance, provide for and regulate the award of all contracts. [No contract shall be entered into or purchase made by the city in an amount involving more than three hundred dollars except upon council's approval thereof.] All contracts or purchases not in excess of one thousand five hundred dollars shall be by note or memorandum in writing, signed by the officer or employe making the purchase or contract.

(b) All services and personal properties required by any city, or any department thereof, where the amount exceeds the sum of one thousand five hundred dollars, shall be furnished and performed under written contract, and the contract shall be awarded and given to the lowest responsible bidder, after advertising three times, each publication on a different day, in not more than two newspapers, in accord with the provisions of section one hundred and nine of this act, and the bids shall not be opened until at least ten days have elapsed after the first advertisement.

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(d) The contracts or purchases made by council involving an expenditure of over one thousand five hundred dollars, which shall not require advertising or bidding, as hereinbefore provided are as follows:

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Section 2. Section 1902 of the act, amended May 6, 1957 (P. L. 105), is amended to read:

Section 1902. Evasion of Advertising Requirements.—No member or members of council shall evade the provisions of the preceding

section as to advertising for bids by purchasing or contracting for services and personal properties piecemeal for the purpose of obtaining prices under one thousand five hundred dollars upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than one thousand five hundred dollars. 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 transactions involved should have been made as one transaction for one price. Any members of council 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 ten per centum of the full amount of the contract or purchase. Wherever it shall appear that a member of council may have voted in violation of this section but the purchase or contract on which he so voted was not approved by council, this section shall be inapplicable.

Section 3. Section 1903 of the act is repealed.

Section 4. Section 1907 of the act, amended May 6, 1959 (P. L. 292) is amended to read:

Section 1907. Bonds for the Protection of Labor and Materialmen.—It shall be the duty of every city to require any person, copartnership, association, or corporation, entering into a contract with such city for the construction, erection, installation, completion, alteration, repair of, or addition to, any public work or improvement of any kind whatsoever, where the amount of such contract is in excess of one thousand five hundred dollars, before commencing work under such contract, to execute and deliver to such city, in addition to any other bond which may now or hereafter be required by law to be given in connection with such contract, an additional bond for the use of any and every person, copartnership, association, or corporation interested, in a sum not less than fifty per centum and not more than one hundred per centum of the contract price, as such city may prescribe, having as surety thereon one or more surety companies legally authorized to do business in this Commonwealth, conditioned for the prompt payment of all material furnished and labor supplied or performed in the prosecution of the work, whether or not the said material or labor enter into and become component parts of the work or improvement contemplated. Such additional bond shall be deposited with and held by the city for the use of any party interested therein. Every such additional bond shall provide that every person, copartnership, association, or corporation who, whether as subcontractor

<sup>1</sup> "of" in original.

or otherwise, has furnished material or supplied or performed labor in the prosecution of the work as above provided, and who has not been paid therefor, may sue in assumpsit on said additional bond, in the name of the city, for his, their, or its use and prosecute the same to final judgment for such sum or sums as may be justly due him, them, or it, and have execution thereof: Provided, however, That the city shall not be liable for the payment of any costs or expense of any suit.

Section 5. Section 1909 of the act, reenacted and amended June 28, 1951 (P. L. 662) is amended to read:

Section 1909. Separate Bids for Plumbing, Heating, Ventilating and 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 one thousand five hundred dollars, 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 person or persons authorized to enter into contracts for the erection, construction, or alteration of such public buildings 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 6. This act shall take effect immediately.

APPROVED—The 9th day of October, A. D. 1967.

RAYMOND P. SHAFER

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No. 171

AN ACT

SB 197

Amending the act of February 1, 1966 (P. L. 1656), entitled "An act concerning boroughs, and revising, amending and consolidating the law relating to boroughs," further regulating contracts, advertisements, specifications and bids for certain contracts and bonds for the protection of labor and materialmen.

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