

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 per-

son 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:

Section 1. Subsection (a) and the first paragraph of subsection (d) of section 1402 and section 1403, act of February 1, 1966 (P. L. 1656), known as "The Borough Code," are amended to read:

Section 1402. Regulation of Contracts.—(a) All contracts or purchases in excess of [one thousand dollars (\$1,000)] one thousand five hundred dollars (\$1,500), except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder after due notice in one newspaper of general circulation in the borough, at least three times at intervals of not less than three days where daily newspapers of general circulation are available for such publication, in case of weekly newspapers, such notice 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 amount of the contract shall in all cases, whether of straight sale price, conditional sale, bailment lease, or otherwise, be the entire amount which the borough pays to the successful bidder or his assigns in order to obtain the services or property, or both, and shall not be construed to mean only the amount which is paid to acquire title or to receive any other particular benefit or benefits of the whole bargain. In awarding bids, council shall have the right to take into consideration such other factors as the availability, cost and quality of service.

\* \* \*

(d) The contracts or purchases made by council, involving an expenditure of over [one thousand dollars (\$1,000)] one thousand five hundred dollars (\$1,500), which shall not require advertising or bidding as hereinbefore provided, are as follows:

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Section 1403. Evasion of Advertising Requirements.—No member or members of council shall evade the provisions of section 1402 hereof as to advertising for bids, by purchasing or contracting for services and personal properties piecemeal for the purpose of obtaining prices under [one thousand dollars (\$1,000)] one thousand five hundred dollars (\$1,500) upon transactions, which transactions should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than [one thousand dollars (\$1,000)] one thousand five hundred dollars (\$1,500).

This provision is intended to make unlawful the evading of 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 percent of the full amount of the contract or purchase. Whenever 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 2. Sections 1405 and 1406 of the act are amended to read:

Section 1405. Separate Bids for Plumbing, Heating, Ventilating and Electrical Work.—In the preparation for the erection, construction and alteration of any public building, when the entire cost of such work shall exceed [one thousand dollars (\$1,000)] one thousand five hundred dollars (\$1,500), the architect, engineer, or other person preparing such specifications may, if so requested by the borough council, prepare separate specifications for the plumbing, heating, ventilating and electrical work. The person or persons authorized to enter into contracts for the erection, construction or alteration of such public buildings may, if such separate specifications shall have been proposed, receive separate bids upon each of the said branches of work and shall thereupon award the contract for the same to the lowest responsible bidder for each of said branches.

Section 1406. Bonds for the Protection of Labor and Materialmen.—It shall be the duty of every borough to require any person, copartnership, association, or corporation, entering into a contract with such borough 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 dollars (\$1,000)] one thousand five hundred dollars (\$1,500), before commencing work under such contract, to execute and deliver to such borough, 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 percent and not more than one hundred percent of the contract price, as such borough 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 borough 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 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 borough, 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, the borough shall not be liable for the payment of any costs or expense of any suit.

Section 3. This act shall take effect immediately.

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

RAYMOND P. SHAFER

No. 172

AN ACT

SB 654

Amending the act of August 21, 1953 (P. L. 1306), entitled, as amended, "An act prescribing the fees to be received by the clerks of orphans' courts of counties of the fifth, sixth, seventh and eighth class," revising and modernizing certain fees.

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

Section 1. Section 1, act of August 21, 1953 (P. L. 1306), entitled, as amended, "An act prescribing the fees to be received by the clerks of orphans' courts of counties of the fifth, sixth, seventh and eighth class," first paragraph amended March 20, 1956 (P. L. 1305) is amended to read:

Section 1. The following fees shall be received by the clerks of orphans' courts in counties of the fifth, sixth, seventh and eighth class:

Accounts: Filing, recording, and setting up printed copies of advertisement of accounts of trustees and guardians, including certificate of the clerk:

First page [, double space typewriting . . . . .	\$11.00]	<u>\$15.00</u>
Each additional page [, double space typewriting	1.00]	<u>2.00</u>
[First page, single space typewriting . . . . .	12.00	
Each additional page, single space typewriting . . .	2.00]	
Release attached to account, recording [, either single or double space (1 page)] . . . . .	2.00	
Each additional page [, either single or double space] . . . . .	2.00	
Adjudications (omitting opinion and discussion):		
Recording, with recording certificate and filing . . .	5.00	
First page of distribution [, either single or double space] . . . . .	5.00	