

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL****No. 293** Session of  
2011

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INTRODUCED BY BRUBAKER, EICHELBERGER, KASUNIC, FOLMER, GORDNER,  
BOSCOLA, ORIE, RAFFERTY, YAW, M. WHITE, D. WHITE, ERICKSON,  
BAKER, ALLOWAY, GREENLEAF, SMUCKER, FERLO, ROBBINS, VANCE,  
EARLL, SCARNATI, McILHINNEY AND PICCOLA, JANUARY 26, 2011

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REFERRED TO EDUCATION, JANUARY 26, 2011

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## AN ACT

Amending the act of July 5, 1947 (P.L.1217, No.498), entitled "An act to promote the education and educational facilities of the people of the Commonwealth of Pennsylvania; creating a State Public School Building Authority as a body corporate and politic with power to construct, improve and operate projects and to lease the same and to fix and collect fees, rentals and charges for the use thereof; authorizing school districts to enter into contracts to lease; authorizing and regulating the issuance of bonds by said Authority; and providing for the payment of such bonds and the rights of the holders thereof; granting the right of eminent domain; increasing the powers and duties of the Department of Public Instruction; and providing that no debt of the Commonwealth shall be incurred in the exercise of any of eminent domain; increasing the powers and duties of the Department of Public Instruction; and providing that no debt of the Commonwealth shall be incurred in the exercise of any of the powers granted under this act; and making an appropriation to said Authority to pay expenses incident to its formation," further providing for competitive bidding of contracts; and providing for evasion of advertising requirements.

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

Section 1. Section 10 of the act of July 5, 1947 (P.L.1217, No.498), known as the State Public School Building Authority Act, amended April 20, 1949 (P.L.636, No.142), October 4, 1978

(P.L.1024, No.227) and December 22, 1981 (P.L.554, No.164), is amended to read:

Section 10. Competition in Award of Contracts.--(a) If any project or any portion thereof, or any improvement thereof, shall be constructed pursuant to a contract, and the estimated cost thereof exceeds [four thousand dollars (\$4,000)] twenty-five thousand dollars (\$25,000), subject to adjustment under clause (b), such contract shall be awarded to the lowest responsible bidder after advertisement for bids once a week for three weeks in at least one newspaper of general circulation in the county where the project or improvement is located. The authority may make rules and regulations for the submission of bids and the construction or improvement of any project or portion thereof. No contract shall be entered into for construction or improvement of any project or portion thereof, or for the purchase of materials, 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, and such contract shall be accompanied by an additional bond for the protection of those who furnish labor and material, for such amount and subject to the same terms and conditions as recommended by The Administrative Code of one thousand nine hundred twenty-nine, as amended, on contracts entered into by the Department of General Services for the erection of buildings. All construction 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 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 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.

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

Every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works shall comply with the provisions of the act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act."

(b) Adjustments shall be made as follows:

(1) Every five years, beginning with the year in which this subsection becomes applicable to contracts and purchases, the Department of Labor and Industry shall calculate the average percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the United States city average for all items as published by the United States Department of Labor, Bureau of Labor Statistics, for the preceding five-year period.

(2) The positive percentage change, as determined in

accordance with paragraph (1), shall be multiplied by the amount applicable under clause (a) for the current five-year period and the product thereof shall be added to the amount applicable under clause (a) for the current five-year period, with the result rounded to the nearest multiple of one hundred dollars (\$100).

(3) The determination required under paragraph (1) and the calculation of the adjustments required under paragraph (2) shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection, and between October 1 and November 15 of each successive year.

(4) The adjusted amounts obtained in accordance with paragraph (2) shall become effective January 1 for the five-year period following the year in which the determination required under paragraph (1) is made.

(5) The Department of Labor and Industry shall give notice in the Pennsylvania Bulletin prior to January 1 of each calendar year in which the percentage change determined in accordance with paragraph (1) and the amounts, whether adjusted or unadjusted in accordance with paragraph (2), at which competitive bidding is required under clause (a) for the five-year period beginning the first day of January after publication of the notice.

Section 2. The act is amended by adding a section to read:

Section 10.1. Evasion of Advertising Requirements.--No member of the Authority shall evade the provisions of section 10 as to advertising for bids, by purchasing or contracting for services and personal properties piecemeal to obtain prices under the required advertising price, subject to annual adjustment under section 10(b). 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 the Authority 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. Whenever it shall appear that a member of the Authority may have voted in violation of this section, but the purchase or contract on which the member so voted was not approved by the Authority, this section shall be inapplicable.

Section 3. The amendment or addition of sections 10 and 10.1 of the act shall apply to contracts and purchases advertised after December 31 of the year in which this section takes effect.

Section 4. This act shall take effect immediately.