

## No. 1978-232

## AN ACT

## HB 2347

Amending the act of August 9, 1955 (P.L.323, No.130), entitled "An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto," further regulating contracts as to bids, advertising requirements and purchases.

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

Section 1. Section 1801, subsections (a), (b) and the first paragraph of subsection (h) of section 1802 and section 1803, act of August 9, 1955 (P.L.323, No.130), known as "The County Code," amended November 23, 1976 (P.L.1146, No.248), are amended and section 1802 is amended by adding a subsection to read:

Section 1801. Commissioners Sole Contractors for County.—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 **[two thousand dollars (\$2000)] two thousand five hundred dollars (\$2,500)** shall be by note or memorandum, in writing, signed by the county commissioners, or their agent. 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. The commissioners shall, where possible, anticipate the needs of the various officers and agencies 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 amount thereof exceeds the sum of **[two thousand dollars (\$2000)] two thousand five hundred dollars (\$2,500)**, shall be written and shall, except as otherwise hereinafter specified, be made by advertising for bids.

(b) Contracts or purchases in excess of **[two thousand dollars (\$2000)] two thousand five hundred dollars (\$2,500)**, 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, published or circulating in the county, at least three 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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(h) The contracts or purchases made by the commissioners involving an expenditure of over **[two thousand dollars (\$2000)]** *two thousand five hundred dollars (\$2,500)* which shall not require advertising or bidding, as hereinbefore provided, are as follows:

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*(i) 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 (No.3), known as the "Steel Products Procurement Act."*

Section 1803. Evasion of Advertising Requirements.—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 **[two thousand dollars (\$2000)]** *two thousand five hundred dollars (\$2,500)* upon transactions which should in the exercise of reasonable discretion and prudence be conducted as one transaction amounting to more than **[two thousand dollars (\$2000)]** *two thousand five hundred dollars (\$2,500)*. 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.

Section 2. This act shall take effect in 60 days.

APPROVED—The 4th day of October, A. D. 1978.

MILTON J. SHAPP