

## No. 1988-32

## AN ACT

## HB 1271

Amending the act of June 23, 1931 (P.L.932, No.317), entitled "An act relating to cities of the third class; and amending, revising, and consolidating the law relating thereto," further providing for the power to make contracts and for regulations concerning contracts.

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

Section 1. Sections 1901(a), (b) and (d) and 1902 of the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, reenacted and amended June 28, 1951 (P.L.662, No.164) and amended December 22, 1981 (P.L.530, No.151), 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. All contracts or purchases not in excess of **[four] ten** thousand 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 **[four] ten** thousand 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] two** 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. *A notice of the advertisement for contracts or purchases shall also be posted at the city hall.*

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(d) The contracts or purchases made by council involving an expenditure of over **[four] ten** thousand dollars, 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 of the city, provided they do not constitute new additions, extensions or enlargements of existing facilities and equipment, but a bond may be required by council as in other cases of work done.

(2) Those made for improvements, repairs and maintenance of any kind made or provided by any city through its own employes: Provided, however, That this 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 council, which are patented and manufactured or copyrighted products.

(4) Those involving any policies of insurance or surety company bonds; those made for public utility service under tariffs on file with the Pennsylvania Public Utility Commission; those made with another political subdivision or a county, the Commonwealth of Pennsylvania, the Federal government, any agency of the Commonwealth or the Federal government, or any municipal authority, including the sale, leasing or loan of any supplies or materials by the Commonwealth or the Federal government, or their agencies, but the price thereof shall not be in excess of that fixed by the Commonwealth, the Federal government, or their agencies.

(5) Those involving personal or professional services.

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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 [four] ten thousand dollars upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than [four] ten thousand 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 2. Section 1909 of the act, amended December 22, 1981 (P.L.530, No.151), 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 [four] ten thousand 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 eleva-

tors 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 3. This act shall take effect in 60 days.

APPROVED—The 25th day of March, A. D. 1988.

ROBERT P. CASEY