

No. 1990-38

AN ACT

SB 747

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," increasing the amount of work of any nature which can be performed on property owned by a school district without advertising and without competitive bids; providing for price quotations on certain contracts and purchases that are not subject to advertisement and competitive bidding; and increasing the amount of furniture, equipment and supplies that can be purchased without advertisement.

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

Section 1. Section 751(a) and (b) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended February 4, 1982 (P.L.1, No.1) and June 29, 1984 (P.L.438, No.93), are amended and the section is amended by adding subsections to read:

Section 751. Work to be Done Under Contract Let on Bids; Exception.—(a) All construction, reconstruction, repairs, maintenance or work of any nature, including the introduction of plumbing, heating and ventilating, or lighting systems, upon any school building or upon any school property, or upon any building or portion of a building leased under the provisions of section 703.1, made by any school district, where the entire cost, value, or amount of such construction, reconstruction, repairs, maintenance or work, including labor and material, shall exceed **[four thousand dollars (\$4,000)] ten thousand dollars (\$10,000)**, shall be done under separate contracts to be entered into by such school district with the lowest responsible bidder, upon proper terms, after due public notice has been given asking for competitive bids. Whenever a board of school directors shall approve the use of a prefabricated unit, complete in itself, for a school building or other proper structure to be erected upon school property, the board of school directors may have prepared appropriate specifications detailing the size and material desired in a particular prefabricated unit, including all utilities such as plumbing, heating and ventilating, and electrical work, and may advertise for a single bid on all the work and award the contract therefor to the lowest responsible bidder: Provided, That if due to an emergency a school plant or any part thereof becomes unusable competitive bids for repairs or replacement may be solicited from at least three responsible bidders, and upon the approval of any of these bids by the Secretary of Education, the board of school directors may proceed at once to make the necessary repairs or replacements in accordance with the terms of said approved ~~bid or bids.~~

(a.1) Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested by the board of school direc-

tors for all contracts that exceed four thousand dollars (\$4,000) but are less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

(b) The board of school directors in any school district may perform any construction, reconstruction, repairs, or work of any nature, where the entire cost or value, including labor and material, is less than five thousand dollars (\$5000), by its own maintenance personnel. **[The board may have any such construction, reconstruction, repairs, or work up to ten thousand dollars (\$10,000) performed by contract after soliciting bids from at least three responsible bidders: Provided, That the]** *The board of school directors in any school district may authorize the secretary of the board or other executive to award contracts for construction, reconstruction, repairs, or work of any nature, where the entire cost or value, including labor and material, is [four thousand dollars (\$4,000)] ten thousand dollars (\$10,000) or less, without soliciting competitive bids, subject, however, to the provisions of subsection (a.1).*

* * *

(f) No board of school directors shall evade the provisions of this section as to advertising for bids or purchasing materials or contracting for services piecemeal for the purpose of obtaining prices under ten thousand dollars (\$10,000) upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than ten thousand dollars (\$10,000). 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.

Section 2. Section 807.1 of the act, amended February 4, 1982 (P.L.1, No.1), is amended to read:

Section 807.1. Purchase of Supplies.—(a) All furniture, equipment, textbooks, school supplies and other appliances for the use of the public schools, costing **[four thousand dollars (\$4,000)] ten thousand dollars (\$10,000)** or more shall be purchased by the board of school directors only after due advertisement as hereinafter provided. Supplies costing **[four thousand dollars (\$4,000)] ten thousand dollars (\$10,000)** or more shall be purchased by the board of school directors only after public notice has been given by advertisement once a week for three (3) weeks in not less than two (2) newspapers of general circulation. In any district where no newspaper is

published, said notice may, in lieu of such publication, be posted in at least five (5) public places.

(a.1) Written or telephonic price quotations from at least three qualified and responsible vendors shall be requested by the board of school directors for all purchases of supplies that exceed four thousand dollars (\$4,000) but are less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified vendors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the vendor and the vendor's representative, the supplies which were the subject of the quotation and the price of the supplies. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

(b) The board of school directors shall accept the bid of the lowest responsible bidder, kind, quality, and material being equal, but shall have the right to reject any and all bids, or select a single item from any bid. The board of school directors in any district may authorize or appoint the secretary of the board or other executive as purchasing agent for the district, with authority to purchase supplies costing less than [four thousand dollars (\$4,000)] ten thousand dollars (\$10,000).

(c) The following shall be exempt from the above provisions: maps, music, globes, charts, educational films, filmstrips, prepared transparencies and slides, pre-recorded magnetic tapes and disc recordings, textbooks, games, toys, prepared kits, flannel board materials, flash cards, models, projectuals and teacher demonstration devices necessary for school use.

(d) No board of school directors shall evade the provisions of this section as to advertising for bids or purchasing materials piecemeal for the purpose of obtaining prices under ten thousand dollars (\$10,000) upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than ten thousand dollars (\$10,000). 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.

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

APPROVED—The 4th day of May, A. D. 1990.

ROBERT P. CASEY