

No. 1990-94

AN ACT

SB 749

Amending the act of June 5, 1947 (P.L.458, No.208), entitled, as amended, "An act creating as bodies corporate and politic 'Parking Authorities' in cities of the first, second, second A and third classes, boroughs, and townships of the first class; prescribing the rights, powers and duties of such authorities; authorizing such authorities to acquire, construct, improve, maintain and operate parking projects, to conduct research of the parking problem, to supervise, operate and administer an efficient coordinated system of on-street parking regulation where so authorized by municipal ordinance or resolution, to establish a permanent coordinated system of off-street parking facilities, and to borrow money and issue bonds for such facilities therefor; providing for the payment of such bonds and prescribing the rights of the holders thereof; conferring the right of eminent domain on such authorities; empowering such authorities to enter into contracts with, and to accept grants from, the Federal Government, State, political subdivisions of the State or any agency thereof; exempting the property and securities of such parking authorities from taxation and conferring exclusive jurisdiction on certain courts over rates for their facilities," further providing for the maximum amount for which an authority may contract or purchase without bids; and providing a penalty.

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

Section 1. Section 11 of the act of June 5, 1947 (P.L.458, No.208), known as the Parking Authority Law, amended or added October 4, 1978 (P.L.1029, No.229) and February 5, 1982 (P.L.15, No.7), is amended to read:

Section 11. Competition in Award of Contracts.—(a) All construction, reconstruction, repairs or work of any nature made by any Authority, where the entire cost, value or amount of such construction, reconstruction, repairs or work including labor and materials, shall exceed **[four thousand dollars (\$4,000)] ten thousand dollars (\$10,000)**, except reconstruction, repairs or work done by employes of said Authority, or by labor supplied under agreement with any Federal or State agency with supplies and materials purchased as hereinafter provided, shall be done only under contract or contracts to be entered into by the Authority with the lowest responsible bidder, upon proper terms, after due public notice has been given, asking for competitive bids as hereinafter provided. No contract shall be entered into for construction or improvement or repair of any project, or portion thereof, 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. All such 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 main-

tain 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, repair or improve any project or portion thereof, or any addition, betterment or extension thereto directed by the officers, agents and employes of the Authority or otherwise than by contract.

(b) All supplies and materials costing **[four thousand dollars (\$4,000)] ten thousand dollars (\$10,000)** or more shall be purchased only after due advertisement as hereinafter provided. *The* Authority shall accept the lowest bid or bids, kind, quality and material being equal, but the Authority shall have the right to reject any or all bids or select a single item from any bid. The provisions as to bidding shall not apply to the purchase of patented and manufactured products offered for sale in a noncompetitive market, or solely by a manufacturer's authorized dealer.

(b.1) Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested 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.

(c) The terms, advertisement or due public notice, wherever used in this section shall mean a notice published at least ten (10) days before the award of any contract in a newspaper of general circulation published in the municipality where the Authority has its principal office, and if no newspaper is published therein, then by publication in a newspaper in the county where the Authority has its principal office.

(d) No member of the Authority or officer or employe thereof shall either directly or indirectly be a party to, or be in any manner interested in, any contract or agreement with the Authority for any matter, cause or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such Authority. If any contract or agreement shall be made in violation of the provisions of this section the same shall be null and void and no action shall be maintained thereon against such Authority.

(e) Subject to the foregoing provisions any 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: Provided, however, That the

provisions of this section shall not apply to any case in which the Authority has taken over by transfer or assignment any contract authorized to be assigned to it under the provisions of section sixteen of this act, nor to any contract in connection with the construction of any project which the Authority may have had transferred to it by any person or private corporation.

(f) 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."

(g) An Authority shall not evade the provisions of this section as to 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.

(h) Any Authority member who votes to unlawfully evade the provisions of this section and who knows that the transaction upon which he so votes 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 commits a misdemeanor of the third degree for each contract entered into as a direct result of that vote.

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

APPROVED—The 10th day of July, A. D. 1990.

ROBERT P. CASEY