

No. 1990-97

## AN ACT

## SB 753

Amending the act of August 6, 1936 (Sp.Sess., P.L.95, No.38 1/2), entitled "An act to authorize and empower cities, boroughs, towns, and townships, separately or jointly, to provide for protection against floods by erecting and constructing certain works and improvements, located within or without their territorial limits, and within or without the county in which situate; and to expend moneys and incur indebtedness; to assess benefits against property benefited; to issue improvement bonds imposing no municipal liability; and to acquire, take, injure or destroy property for such purposes," further regulating purchases and bidding on such purchases; and providing a penalty.

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

Section 1. Section 3 of the act of August 6, 1936 (Sp.Sess., P.L.95, No.38 1/2), entitled "An act to authorize and empower cities, boroughs, towns, and townships, separately or jointly, to provide for protection against floods by erecting and constructing certain works and improvements, located within or without their territorial limits, and within or without the county in which situate; and to expend moneys and incur indebtedness; to assess benefits against property benefited; to issue improvement bonds imposing no municipal liability; and to acquire, take, injure or destroy property for such purposes," amended December 22, 1981 (P.L.553, No.163), is amended to read:

Section 3. (a) No such works or improvements, involving an expenditure by any municipality or municipalities of more than **[four thousand dollars (\$4,000)] ten thousand dollars (\$10,000)**, shall be erected, constructed or provided, except by contract let to the lowest responsible bidder after due advertisement, once a week for two successive weeks in at least one newspaper of general circulation: Provided, however, That no contract shall be required to be let for the performance of the work on any such work or improvement where the cost of the labor shall be paid by the Federal Government, or any agency thereof, without cost to the municipality or municipalities.

(b) *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) No municipality 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.*

*(d) Any member of a governing body of a municipality 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.*

*(e) 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."*

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

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

ROBERT P. CASEY