

No. 2011-95

AN ACT

SB 292

Amending the act of August 7, 1936 (1st Sp.Sess., P.L.106, No.46), entitled, as reenacted and amended, "An act relating to flood control; prescribing the powers and duties of the Water and Power Resources Board of the Department of Forests and Waters in relation to the creation of flood control districts, adoption of plans for flood control works and improvements, carrying into effect of such plans, assistance, aid and cooperation with public and private agencies and the Federal Government in Federal flood control works and improvements, and entering into compacts and agreements with other states for flood control works and improvements; conferring the power of eminent domain; providing for the setting off of benefits; imposing certain charges upon the Commonwealth; providing for appeals; and conferring certain powers on municipalities, counties, and townships, and the Department of Highways," further providing for contracts and acquisition of property; and providing for adjustments.

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

Section 1. Section 10 of the act of August 7, 1936 (1st Sp.Sess., P.L.106, No.46), referred to as the Flood Control Law, reenacted and amended March 10, 1937 (P.L.43, No.18) and amended December 22, 1981 (P.L.551, No.162), is amended to read:

Section 10. Contracts and Acquisition of Property.—All work of any character whatever performed by the board under the authority of this act, except as hereinafter provided, in connection with any State public flood control works and improvements, involving an expenditure of more than **[four thousand dollars] a base amount of eighteen thousand five hundred dollars, subject to adjustment under section 10.1**, shall be performed under written contract let by the board to the lowest responsible bidder after due advertisement as prescribed by the board; except, however, that the board may, with the approval of the Governor, enter into contracts or agreements, without advertisement, with any person, corporation or municipality, covering the removal or relocation of gas, water, and telephone, telegraph, electric light, and electric power lines, highways, railroads, or other facilities, and providing therein for said removal or relocation by the person, corporation or municipality owning such facility. The board may, with the approval of the Governor, acquire any necessary easements and rights-of-way and may pay all costs and damages necessary, arising from and incidental to said removal or relocation. Payment shall be made from the General Fund Appropriations for Flood Control Projects.

The board may sell, lease, or otherwise dispose of all property, real, personal or mixed, acquired under the provisions of this act, not needed by the Commonwealth for reservoir or flood control purposes, subject to the approval of the Governor. The moneys received through such sale, lease or other disposition shall accrue to the General Fund.

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. The act is amended by adding sections to read:

Section 10.1. Adjustments.—(a) *Adjustments to the base amounts specified under section 10 shall be made as follows:*

(1) *The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending September 30, 2012, and for each successive twelve-month period thereafter.*

(2) *If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period provided for in this subsection.*

(3) (i) *If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.*

(ii) *The preliminary adjusted amounts shall be rounded to the nearest one hundred dollars, to determine the final adjusted base amounts for purposes of section 10.*

(4) *In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest one hundred dollars to determine the new final adjusted base amounts for purposes of section 10.*

(5) *The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection and annually between October 1 and November 15 of each year thereafter.*

(6) *The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.*

(7) *The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which competitive bidding is required under this subsection for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this subsection for the ensuing calendar year.*

(8) *The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed three percent.*

Section 3. This act shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of this section.

Section 4. This act shall take effect immediately.

APPROVED—The 3rd day of November, A.D. 2011

TOM CORBETT