

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 99 Session of
2017

INTRODUCED BY ZIMMERMAN, BAKER, GREINER, MILLARD, PICKETT,
HICKERNELL, MENTZER, PEIFER, WARD, FLYNN, RADER, B. MILLER,
GILLEN, MEHAFFIE AND KORTZ, JANUARY 23, 2017

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 15, 2018

AN ACT

1 Amending Title 8 (Boroughs and Incorporated Towns) of the
2 Pennsylvania Consolidated Statutes, in contracts, further
3 providing for regulation of contracts.

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

6 Section 1. Section 1402(d)(1), (4)(ii) and (iii) and (6) of
7 Title 8 of the Pennsylvania Consolidated Statutes are amended
8 and the subsection is amended by adding ~~a paragraph~~ PARAGRAPHS <--
9 to read:

10 § 1402. Regulation of contracts.

11 * * *

12 (d) Contracts or purchases.--The contracts or purchases made
13 by council, which shall not require advertising, bidding or
14 price quotations as provided in this part, are as follows:

15 ~~(1) Those for emergencies or for maintenance, repairs or~~ <--
16 ~~replacements for water, electricity or public works of the~~
17 ~~borough, if they do not constitute new additions, extensions~~

1 ~~or enlargements of existing facilities and equipment, but~~
2 ~~security may be required by council, as in other cases of~~
3 ~~work done. For those contracts or purchases made in cases of~~
4 ~~emergencies, the actual emergency and the nature of the~~
5 ~~procurement shall be stated in a resolution by council and~~
6 ~~adopted at the next public meeting.~~

7 (1) THOSE FOR ROUTINE MAINTENANCE, REPAIRS OR <--
8 REPLACEMENTS FOR WATER, ELECTRICITY OR PUBLIC WORKS OF THE
9 BOROUGH, IF THEY DO NOT CONSTITUTE NEW ADDITIONS, EXTENSIONS
10 OR ENLARGEMENTS OF EXISTING FACILITIES AND EQUIPMENT, BUT
11 SECURITY MAY BE REQUIRED BY COUNCIL, AS IN OTHER CASES OF
12 WORK DONE.

13 (1.1) THOSE FOR EMERGENCY MAINTENANCE, REPAIRS OR
14 REPLACEMENTS FOR WATER, ELECTRICITY OR PUBLIC WORKS OF THE
15 BOROUGH, IF THEY DO NOT CONSTITUTE NEW ADDITIONS, EXTENSIONS
16 OR ENLARGEMENTS OF EXISTING FACILITIES AND EQUIPMENT, BUT
17 SECURITY MAY BE REQUIRED BY COUNCIL, AS IN OTHER CASES OF
18 WORK DONE. THE ACTUAL EMERGENCY AND THE NATURE OF THE
19 PROCUREMENT SHALL BE STATED IN A RESOLUTION BY COUNCIL AND
20 ADOPTED AT THE NEXT PUBLIC MEETING.

21 (1.2) THOSE FOR THE MITIGATION OF A REAL OR POTENTIAL
22 EMERGENCY INVOLVING A CLEAR AND PRESENT DANGER TO THE HEALTH,
23 SAFETY AND WELFARE OF THE RESIDENTS OF THE BOROUGH. FOR THOSE
24 CONTRACTS OR PURCHASES MADE IN CASES OF EMERGENCIES, THE
25 ACTUAL EMERGENCY AND THE NATURE OF THE PROCUREMENT SHALL BE
26 STATED IN A RESOLUTION BY COUNCIL AND ADOPTED AT THE NEXT
27 PUBLIC MEETING.

28 * * *

29 (4) * * *

30 (ii) Those made for utility service for borough

1 purposes, including, but not limited to, those made for
2 natural gas or telecommunications services and
3 electricity.

4 [(iii) Those made for electricity with the entities
5 set forth in paragraph (6) (i), (ii), (iii), (iv), (v),
6 (vi) and (vii) (A).]

7 * * *

8 (6) Those made relating to the purchase of electricity
9 and associated energy and related services by a borough
10 owning or operating electric generation or distribution
11 facilities [on January 1, 1966,] with any of the following:

12 (i) A political subdivision.

13 (ii) Another state.

14 (iii) The Commonwealth or a Commonwealth agency.

15 (iv) The Federal Government.

16 (v) A private corporation.

17 (vi) An electric cooperative corporation under 15
18 Pa.C.S. Ch. 73 (relating to electric cooperative
19 corporations).

20 (vii) A nonprofit membership corporation. As used in
21 this subparagraph, the term "nonprofit membership
22 corporation" means an entity, the membership of which:

23 (A) consists solely of Commonwealth boroughs,
24 such as a consortium, buying group or municipal power
25 agency under section 24A04 (relating to municipal
26 power agencies); or

27 (B) consists of Commonwealth boroughs and
28 political subdivisions of another state.

29 (viii) An electric cooperative of another state.

30 Nothing in this paragraph prohibits council from engaging in

1 advertising, bidding or price quotations if the council
2 determines that the advertising, bidding or price quotations
3 are in the public interest.

4 (7) Those made for materials and supplies or equipment
5 rental under emergency conditions under 35 Pa.C.S. Pt. V
6 (relating to emergency management services).

7 * * *

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