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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 359 Session of  
2023

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INTRODUCED BY ROBINSON, KANE, DILLON, SANTARSIERO, BARTOLOTTA,  
REGAN, HUTCHINSON, COSTA, STEFANO, VOGEL AND DUSH,  
FEBRUARY 16, 2023

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REFERRED TO LABOR AND INDUSTRY, FEBRUARY 16, 2023

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AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated  
2 Statutes, in procurement organization, further providing for  
3 powers and duties of Department of General Services and  
4 providing for limited contract adjustment due to construction  
5 material price escalation.

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

8 Section 1. Section 321 of Title 62 of the Pennsylvania  
9 Consolidated Statutes is amended to read:

10 § 321. Powers and duties.

11 Except as otherwise specifically provided in this part, the  
12 department shall have the following powers and duties:

13 (1) Procure or supervise the procurement of all  
14 supplies, services and construction needed by executive  
15 agencies and those independent agencies for which the  
16 department acts as purchasing agency. Procurement authority  
17 may be delegated in writing by the Secretary of General  
18 Services.

19 (2) Exercise general supervision and control over all

1 inventories of supplies belonging to executive agencies.

2 (3) Sell, trade or otherwise dispose of surplus supplies  
3 belonging to executive or independent agencies.

4 (4) Coordinate programs of executive and independent  
5 agencies for the inspection, testing and acceptance of  
6 supplies and construction to ensure availability of  
7 facilities and to avoid a duplication of functions.

8 (5) Establish and maintain a central office where  
9 businesses operating in this Commonwealth may obtain  
10 information pertaining to the procurement needs of  
11 Commonwealth agencies.

12 (6) Participate in the management and maintenance of a  
13 contractor responsibility program in coordination with the  
14 Office of the Budget and other agencies as may be directed by  
15 the Governor.

16 (7) Adjust the prices of construction material line  
17 items within a contract subject to the provisions and  
18 limitations of section 323 (relating to limited contract  
19 adjustment due to construction material price escalation).

20 Section 2. Title 62 is amended by adding a section to read:

21 § 323. Limited contract adjustment due to construction material  
22 price escalation.

23 (a) Conditions authorizing adjustment.--Notwithstanding the  
24 provisions of section 534 (relating to cost or pricing data),  
25 whenever the terms and conditions of a contract awarded by a  
26 Commonwealth agency require a contractor to furnish construction  
27 materials, the terms and conditions shall be adjusted by the  
28 department if the department determines that:

29 (1) The bid for the contract was submitted no earlier  
30 than March 15, 2020.

1           (2) The bid for the contract was submitted no later than  
2 the effective date of this paragraph.

3           (3) At the time of the contractor or subcontractor's  
4 application for contract adjustment, the cost of acquisition  
5 of construction materials by the contractor, subcontractor or  
6 supplier of materials has increased in excess of 5% since the  
7 time of the contract award. The determination under this  
8 paragraph shall be based upon available evidence, including,  
9 but not limited to, a nationally recognized economic index  
10 published by the United States Department of Labor.

11       (b) Application process.--Within 30 days of the effective  
12 date of this subsection, the department shall establish a  
13 process for applications for contract adjustment to be submitted  
14 by a contractor or subcontractor. The department shall:

15           (1) Prescribe the form of the application for a contract  
16 adjustment under this section.

17           (2) Require applications for a contract adjustment under  
18 this section to include sufficient documentary evidence, as  
19 determined by the department, that the contract conforms to  
20 the conditions under subsection (a).

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