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P.L. 2024, CHAPTER 38, *approved July 10, 2024*
Assembly, No. 1677 (*Second Reprint*)

1 AN ACT concerning ¹**[public school contracting and]**¹ electric
2 school buses ¹and government aggregation of certain energy
3 services,¹ and amending various parts of the statutory law.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 ²**[1.** Section 45 of P.L.1999, c.440 (C.18A:18A-4.1) is amended
9 to read as follows:

10 45. Notwithstanding the provisions of any law, rule or regulation
11 to the contrary, competitive contracting may be used by boards of
12 education in lieu of public bidding for procurement of specialized
13 goods and services the price of which exceeds the bid threshold, for
14 the following purposes:

15 a. The purchase or licensing of proprietary computer software
16 designed for board of education purposes, which may include
17 hardware intended for use with the proprietary software. This
18 subsection shall not be utilized for the purpose of acquiring general
19 purpose computer hardware or software;

20 b. The hiring of a for-profit entity or a not-for-profit entity
21 incorporated under Title 15A of the New Jersey Statutes for the
22 purpose of:

23 (1) the operation, management or administration of recreation or
24 social service facilities or programs; or

25 (2) the operation, management or administration of data
26 processing services;

27 c. Services performed by an organization engaged in providing
28 energy conservation education and training services to train
29 employees of a board of education to reduce consumption of
30 energy;

31 d. Telecommunications transmission or switching services that
32 are not part of a tariff or schedule of charges filed with the Board of
33 Public Utilities;

34 e. The purchase of specialized machinery or equipment of a
35 technical nature, or servicing thereof, which will not reasonably
36 permit the drawing of specifications;

37 f. Food services provided by food service management
38 companies when not part of programs administered by the New

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AED committee amendments adopted June 6, 2024.

²Assembly ABU committee amendments adopted June 26, 2024.

1 Jersey Department of Agriculture, Bureau of Child Nutrition
2 Programs;

3 g. Driver education courses provided by licensed driver
4 education schools;

5 h. At the option of the board of education, any good or service
6 that is exempt from bidding pursuant to N.J.S.18A:18A-5;

7 i. Laboratory testing services;

8 j. Concessions;

9 k. The operation, management or administration of other
10 services, with the approval of the Division of Local Government
11 Services in the Department of Community Affairs;

12 l. The purchase of electric school buses, on-site charging
13 infrastructure for electric school buses, and on-site or off-site
14 related electric school bus and charging infrastructure operation and
15 maintenance services, or any combination thereof.

16 Any purpose included herein shall not be considered by a board
17 of education as an extraordinary unspecifiable service pursuant to
18 paragraph (2) of subsection a. of N.J.S.18A:18A-5.

19 (cf: P.L.2009, c.4, s.2)]²

20

21 ²[2.] 1.² N.J.S.18A:18A-42 is amended to read as follows:

22 18A:18A-42. All contracts for the provision or performance of
23 goods or services shall be awarded for a period not to exceed 24
24 consecutive months, except that contracts for professional services
25 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall
26 be awarded for a period not to exceed 12 consecutive months. Any
27 board of education may award a contract for longer periods of time
28 as follows:

29 a. Supplying of:

30 (1) Fuel for heating purposes, for any term not exceeding in the
31 aggregate, three years;

32 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles
33 or equipment, for any term not exceeding in the aggregate, three
34 years;

35 (3) Thermal energy produced by a cogeneration facility, for use
36 for heating or air conditioning or both, for any term not exceeding
37 40 years, when the contract is approved by the Board of Public
38 Utilities. For the purposes of this paragraph, "cogeneration" means
39 the simultaneous production in one facility of electric power and
40 other forms of useful energy such as heating or process steam; or

41 b. Plowing and removal of snow and ice, for any term not
42 exceeding in the aggregate, three years; or

43 c. Collection and disposal of garbage and refuse, for any term
44 not exceeding in the aggregate, three years; or

45 d. Data processing service, for any term of not more than seven
46 years; or

47 e. Insurance, including the purchase of insurance coverages,
48 insurance consultant or administrative services, and including

- 1 participation in a joint self-insurance fund, risk management
2 program or related services provided by a school board insurance
3 group, or participation in an insurance fund established by a county
4 pursuant to N.J.S.40A:10-6, or a joint insurance fund established
5 pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of
6 not more than three years; or
- 7 f. Leasing or servicing of automobiles, motor vehicles,
8 electronic communications equipment, machinery and equipment of
9 every nature and kind and textbooks and non-consumable
10 instructional materials, for any term not exceeding in the aggregate,
11 five years; except that contracts for the leasing of fossil fuel school
12 buses may be awarded for any term not exceeding in the aggregate
13 **[ten]** 10 years and contracts for the leasing of electric school buses
14 and related charging equipment and services may be awarded for
15 any term not exceeding the service life of the electric school buses.
16 Contracts awarded pursuant to this subsection shall be awarded only
17 subject to and in accordance with rules and regulations promulgated
18 by the State Board of Education; or
- 19 g. Supplying of any product or the rendering of any service by
20 a company providing voice, data, transmission or switching
21 services, for a term not exceeding five years; or
- 22 h. (Deleted by amendment, P.L.1999, c.440.)
- 23 i. Driver education instruction conducted by private, licensed
24 driver education schools, for any term not exceeding in the
25 aggregate, three years; or
- 26 j. (Deleted by amendment, P.L.2009, c.4).
- 27 k. Any single project for the construction, reconstruction or
28 rehabilitation of any public building, structure or facility, or any
29 public works project, including the retention of the services of any
30 architect or engineer in connection therewith, for the length of time
31 authorized and necessary for the completion of the actual
32 construction; or
- 33 l. Laundry service and the rental, supply and cleaning of
34 uniforms for any term of not more than three years; or
- 35 m. Food supplies and food services for any term of not more
36 than three years; or
- 37 n. Purchases made under a contract awarded by the Director of
38 the Division of Purchase and Property in the Department of the
39 Treasury for use by counties, municipalities or other contracting
40 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
41 term not to exceed the term of that contract; **[or]**
- 42 o. The provision or performance of goods or services for the
43 purpose of producing class I renewable energy, as that term is
44 defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent
45 to, buildings owned by any local board of education, the entire price
46 of which is to be established as a percentage of the resultant savings
47 in energy costs, for a term not to exceed 15 years; provided,
48 however, that these contracts shall be entered into only subject to

1 and in accordance with guidelines promulgated by the Board of
2 Public Utilities establishing a methodology for computing energy
3 cost savings and energy generation costs; or

4 p. The provision or performance of goods or services for the
5 purpose of providing electric school buses, on-site or off-site
6 electric school bus charging infrastructure, and related maintenance
7 and other related services, or any combination thereof for a
8 specified price for a term up to the service life of the vehicle being
9 contracted.

10 Any contract for services other than professional services, the
11 statutory length of which contract is for three years or less, may
12 include provisions for no more than one two-year, or two one-year,
13 extensions, subject to the following limitations: a. the contract shall
14 be awarded by resolution of the board of education upon a finding
15 by the board of education that the services are being performed in
16 an effective and efficient manner; b. no such contract shall be
17 extended so that it runs for more than a total of five consecutive
18 years; c. any price change included as part of an extension shall be
19 based upon the price of the original contract as cumulatively
20 adjusted pursuant to any previous adjustment or extension and shall
21 not exceed the change in the index rate for the 12 months preceding
22 the most recent quarterly calculation available at the time the
23 contract is renewed; and d. the terms and conditions of the contract
24 remain substantially the same.

25 All multiyear leases and contracts entered into pursuant to this
26 section, including any two-year or one-year extensions, except
27 contracts for insurance coverages, insurance consultant or
28 administrative services, participation or membership in a joint self-
29 insurance fund, risk management programs or related services of a
30 school board insurance group, participation in an insurance fund
31 established by a county pursuant to N.J.S.40A:10-6 or contracts for
32 thermal energy authorized pursuant to subsection a. above, and
33 contracts for the provision or performance of goods or services to
34 promote energy conservation through the production of class I
35 renewable energy, authorized pursuant to subsection o. of this
36 section, shall contain a clause making them subject to the
37 availability and appropriation annually of sufficient funds as may
38 be required to meet the extended obligation, or contain an annual
39 cancellation clause. All contracts shall cease to have effect at the
40 end of the contracted period and shall not be extended by any
41 mechanism or provision, unless in conformance with the "Public
42 School Contracts Law," N.J.S.18A:18A-1 et seq., except that a
43 contract may be extended by mutual agreement of the parties to the
44 contract when a board of education has commenced rebidding prior
45 to the time the contract expires or when the awarding of a contract
46 is pending at the time the contract expires.

47 (cf: P.L.2009, c.4, s.3)

1 ²[3.] 2.² N.J.S.18A:20-4.2 is amended to read as follows:

2 18A:20-4.2. The board of education of any school district may,
3 for school purposes:

4 (a) Purchase, take and condemn lands within the district and
5 lands not exceeding 50 acres in extent without the district but
6 situate in a municipality or municipalities adjoining the district, but
7 no more than 25 acres may be so acquired in any one such
8 municipality, without the district, except with the consent, by
9 ordinance, of such municipality;

10 (b) Grade, drain and landscape lands owned or to be acquired by
11 it and improve the same in like manner;

12 (c) Erect, lease for a term not exceeding 50 years, enlarge,
13 improve, repair or furnish buildings;

14 (d) Borrow money therefor, with or without mortgage; in the
15 case of a type II district without a board of school estimate, when
16 authorized so to do at any annual or special school election; and in
17 the case of a type II district having a board of school estimate, when
18 the amount necessary to be provided therefor shall have been fixed,
19 determined and certified by the board of school estimate; and in the
20 case of a type I district, when an ordinance authorizing expenditures
21 for such purpose is finally adopted by the governing body of a
22 municipality comprised within the district; provided, however, that
23 no such election shall be held nor shall any such resolution of a
24 school estimate board or ordinance of a municipal governing body
25 be introduced to authorize any lease of any building for a term
26 exceeding one year, until the proposed terms of such lease have
27 been reviewed and approved by the Commissioner of Education and
28 the Local Finance Board in the Department of Community Affairs;

29 (e) Construct, purchase, lease or otherwise acquire a building
30 with the federal government, the State, a political subdivision
31 thereof or any other individual or entity properly authorized to do
32 business in the State; provided that: (1) the noneducational uses of
33 the building are compatible with the establishment and operation of
34 a school, as determined by the Commissioner of Education; (2) the
35 portion of the building to be used as a school meets regulations of
36 the Department of Education; (3) the board of education has
37 complied with the provisions of law and regulations relating to the
38 selection and approval of sites; and (4) in the case of a lease, that
39 any lease in excess of five years shall be approved by the
40 Commissioner of Education and the Local Finance Board in the
41 Department of Community Affairs;

42 (f) Acquire, with the approval of either the commissioner, or
43 voters or board of school estimate, as applicable, improvements or
44 additions to school buildings through lease purchase agreements not
45 in excess of five years. The agreement shall be recorded as an
46 expenditure of the General Fund of the district. The commissioner
47 shall approve the agreement only upon a demonstration by the
48 district that the lease purchase payments and any operating

1 expenses related to the agreement can be included within the
2 district's tax levy growth limitation and will not result in the need
3 for approval by the voters or board of school estimate, as
4 appropriate, of additional spending proposals to maintain existing
5 instructional programs and extracurricular activities. If the
6 commissioner cannot approve the agreement, the board of education
7 may frame a separate question to authorize the lease purchase
8 agreement and obtain voter or board of school estimate approval to
9 enter into the agreement. A district may, without separate prior
10 approval of the commissioner, also acquire equipment through a
11 lease purchase agreement not in excess of five years or in the case
12 of a lease purchase agreement entered into for the acquisition of
13 fossil fuel school buses not in excess of 10 years and in the case of
14 a lease purchase agreement entered into for the acquisition of
15 electric school buses and related charging equipment and services
16 not in excess of the service life of the electric school buses,
17 provided that the amount of the first installment and each
18 subsequent installment for the lease purchase payments is included
19 in the budget that is advertised and submitted for approval to the
20 voters of the district or the board of school estimate, as appropriate.
21 As used herein, a "lease purchase agreement" refers to any
22 agreement which gives the board of education as lessee the option
23 of purchasing the leased equipment or improvements or additions to
24 existing school buildings during or upon termination of the lease,
25 with credit toward the purchase price of all or part of rental
26 payments which have been made by the board of education in
27 accordance with the lease. As part of such a transaction, the board
28 of education may transfer or lease land or rights in land, including
29 any building thereon, after publicly advertising for proposals for the
30 transfer for nominal or fair market value, to the party selected by
31 the board of education, by negotiation or otherwise, after
32 determining that the proposal is in the best interest of the taxpayers
33 of the district, to construct or to improve and to lease or to own or
34 to have ownership interests in the site and the school building to be
35 leased pursuant to such lease purchase agreement, notwithstanding
36 the provisions of any other law to the contrary. The land and any
37 building thereon which is described in a lease purchase agreement
38 entered into pursuant to this amendatory act, shall be deemed to be
39 and treated as property of the school district, used for school
40 purposes pursuant to R.S.54:4-3.3, and shall not be considered or
41 treated as property leased to another whose property is not exempt,
42 and shall not be assessed as real estate pursuant to section 1 of
43 P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement
44 authorized by this section shall contain a provision making
45 payments thereunder subject to the annual appropriation of funds
46 sufficient to meet the required payments or shall contain an annual
47 cancellation clause and shall require all construction contracts let by
48 public school districts or let by developers or owners of property

1 used for school purposes to be competitively bid, pursuant to
2 N.J.S.18A:18A-1 et seq.;

3 (g) Establish with an individual or entity authorized to do
4 business in the State a tenancy in common, condominium,
5 horizontal property regime or other joint ownership arrangement on
6 a site contributed by the school district; provided the following
7 conditions are met:

8 (1) The individual or entity agrees to construct on the site, or
9 provide for the construction thereon, a building or buildings for use
10 of the board of education separately or jointly with the individual or
11 entity, which shall be subject to the joint ownership arrangement;

12 (2) The provision of the building shall be at no cost or at a
13 reduced cost to the board of education;

14 (3) The school district shall not make any payment for use of the
15 building other than its pro rata share of costs of maintenance and
16 improvements;

17 (4) The noneducational uses of the building are compatible with
18 the establishment and operation of a school, as determined by the
19 Commissioner of Education;

20 (5) The portion of the building to be used as a school, and the
21 site, meet regulations of the Department of Education; and

22 (6) Any such agreement shall be approved by the Commissioner
23 of Education and the Local Finance Board in the Department of
24 Community Affairs;

25 (h) Acquire through sale and lease-back textbooks and non-
26 consumable instructional materials provided that the sale price and
27 principal amount of the lease-back do not exceed the fair market
28 value of the textbooks and instructional materials and that the
29 interest rate applied in the lease-back is consistent with prevailing
30 market rates or is less.

31 (cf: P.L.2010, c.44, s.7)

32

33 ²[4.] 3.² Section 42 of P.L.1999, c.23 (C.48:3-91) is amended to
34 read as follows:

35 42. a. Pursuant to the provisions of sections 42 through 45 of this
36 act, a government aggregator may obtain: electric generation service,
37 electric related service, gas supply service or gas related service, either
38 separately or bundled, for its own facilities or with other government
39 aggregators; and a government aggregator that is a county or
40 municipality may contract for the provision of electric generation
41 service or gas supply service, either separately or bundled, for the
42 business and residential customers within the territorial jurisdiction of
43 the government aggregator. Such a government aggregator may
44 combine the need for its own facilities for electric generation service
45 or gas supply service with that of business and residential customers.

46 b. A government aggregator shall purchase electric generation
47 service and gas supply service only from licensed electric power
48 suppliers and licensed gas suppliers.

1 c. The government aggregator shall enter into the contract for
2 electric generation service, electric related service, gas supply service
3 or gas related service for its own facilities or with other government
4 aggregators under the provisions of the "Local Public Contracts Law,"
5 P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts
6 Law," N.J.S.18A:18A-1 et seq., the "County College Contracts Law,"
7 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), or the "Interlocal Services
8 Act," P.L.1973, c.208 (C.40:8A-1 et seq.), as applicable.

9 d. Nothing in this act shall preclude the State government or any
10 State independent authority or State college from exercising authority
11 to obtain electric generation service, electric related service, gas
12 supply service or gas related service, either separately or bundled, for
13 its own facilities on an aggregated basis.

14 e. Nothing in this section shall preclude a government aggregator
15 from aggregating its own accounts for regulated utility services,
16 including basic generation or gas service.

17 f. Nothing in this act shall preclude any interstate authority or
18 agency from exercising authority to obtain electric generation service
19 or gas supply service, either separately or bundled, for its own
20 facilities in this State, including tenants in this State and other utility
21 customers in this State at such facilities, on an aggregated basis. By
22 exercising such authority, no interstate authority or agency shall be
23 deemed to be a public utility pursuant to R.S. 48:1-1 et seq.; provided,
24 however, that nothing in this act shall be construed to exempt such
25 authority or agency from the payment of the market transition charge
26 or its equivalent, imposed pursuant to section 13 of this act, the
27 transition bond charge or its equivalent, imposed pursuant to section
28 18 of this act and any societal benefits charge or its equivalent, which
29 may be imposed pursuant to section 12 of this act, to the same extent
30 that other customers of an electric public utility pay such charges in
31 conjunction with any transmission and distribution service provided by
32 an electric public utility to the authority or agency.

33 g. Notwithstanding any other provision of this act to the contrary,
34 a private aggregator that is a private institution of higher education
35 may enter into a contract with a licensed electric power supplier other
36 than a municipal system or rural electric cooperative for the provision
37 of electric generation service or electric related service, either
38 separately or bundled, including any private aggregator that is a four-
39 year private institution of higher education which is located within the
40 jurisdiction of a municipal system, or within the franchise area of a
41 rural electric cooperative, as the case may be. The right hereunder of a
42 four-year private institution of higher education to enter into a contract
43 with a licensed electric power supplier other than the municipal system
44 or rural electric cooperative shall be subject to the condition that the
45 municipal system or rural electric cooperative shall have the right of
46 first refusal to offer a competitive, market-based price for electric
47 power. For the purposes of this subsection, "municipal system" means

1 a municipality that provides light, heat or power pursuant to the
2 provisions of R.S.40:62-12 et seq.

3 h. The "New Jersey School Boards Association," established
4 pursuant to N.J.S.18A:6-45, is authorized to serve as a government
5 aggregator to obtain electric generation service, electric related
6 service, gas supply service or gas related service, either separately or
7 bundled, in accordance with the "Public School Contracts Law,"
8 N.J.S.18A:18A-1 et seq., for members of the association who wish to
9 voluntarily participate ¹and for counties, municipalities, and other
10 local contracting units who wish to voluntarily participate¹. For
11 purposes of this subsection, "electric related service" ¹also¹ includes
12 electric school buses and related goods and services ²[, including
13 construction projects directly related to those goods and services either
14 individually or in combination]².

15 i. Notwithstanding any provisions of the "Administrative
16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
17 the board shall initiate a proceeding and shall adopt, after notice,
18 provision of the opportunity for comment, and public hearing, interim
19 standards governing government energy aggregation programs. Such
20 standards shall be effective as regulations immediately upon filing
21 with the Office of Administrative Law and shall be effective for a
22 period not to exceed 18 months, and may, thereafter, be amended,
23 adopted or readopted by the board in accordance with the provisions of
24 the "Administrative Procedure Act."

25 j. No government aggregator shall implement the provisions of
26 section 42, 43, 44, or 45 of this act, as appropriate, prior to the starting
27 date of retail competition pursuant to section 5 of this act, or the date
28 on which the board adopts interim standards pursuant to subsection i.
29 of this section, whichever is earlier.

30 (cf: P.L.2003, c.248, s.2)

31

32 ²**[5.]** 4.² This act shall take effect immediately.

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34

35

36

37 Authorizes extended terms for lease and purchase contracts for
38 electric school buses; permits New Jersey School Boards
39 Association to serve as government aggregator to obtain energy
40 services for local units.

CHAPTER 38

AN ACT concerning electric school buses and government aggregation of certain energy services, and amending various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.18A:18A-42 is amended to read as follows:

Multiyear contracts.

18A:18A-42. All contracts for the provision or performance of goods or services shall be awarded for a period not to exceed 24 consecutive months, except that contracts for professional services pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall be awarded for a period not to exceed 12 consecutive months. Any board of education may award a contract for longer periods of time as follows:

- a. Supplying of:
 - (1) Fuel for heating purposes, for any term not exceeding in the aggregate, three years;
 - (2) Fuel or oil for use of automobiles, autobuses, motor vehicles or equipment, for any term not exceeding in the aggregate, three years;
 - (3) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam; or
- b. Plowing and removal of snow and ice, for any term not exceeding in the aggregate, three years; or
- c. Collection and disposal of garbage and refuse, for any term not exceeding in the aggregate, three years; or
- d. Data processing service, for any term of not more than seven years; or
- e. Insurance, including the purchase of insurance coverages, insurance consultant or administrative services, and including participation in a joint self-insurance fund, risk management program or related services provided by a school board insurance group, or participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6, or a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more than three years; or
- f. Leasing or servicing of automobiles, motor vehicles, electronic communications equipment, machinery and equipment of every nature and kind and textbooks and non-consumable instructional materials, for any term not exceeding in the aggregate, five years; except that contracts for the leasing of fossil fuel school buses may be awarded for any term not exceeding in the aggregate 10 years and contracts for the leasing of electric school buses and related charging equipment and services may be awarded for any term not exceeding the service life of the electric school buses. Contracts awarded pursuant to this subsection shall be awarded only subject to and in accordance with rules and regulations promulgated by the State Board of Education; or
- g. Supplying of any product or the rendering of any service by a company providing voice, data, transmission or switching services, for a term not exceeding five years; or
- h. (Deleted by amendment, P.L.1999, c.440.)
- i. Driver education instruction conducted by private, licensed driver education schools, for any term not exceeding in the aggregate, three years; or
- j. (Deleted by amendment, P.L.2009, c.4).

k. Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction; or

l. Laundry service and the rental, supply and cleaning of uniforms for any term of not more than three years; or

m. Food supplies and food services for any term of not more than three years; or

n. Purchases made under a contract awarded by the Director of the Division of Purchase and Property in the Department of the Treasury for use by counties, municipalities or other contracting units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term not to exceed the term of that contract;

o. The provision or performance of goods or services for the purpose of producing class I renewable energy, as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent to, buildings owned by any local board of education, the entire price of which is to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; provided, however, that these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings and energy generation costs; or

p. The provision or performance of goods or services for the purpose of providing electric school buses, on-site or off-site electric school bus charging infrastructure, and related maintenance and other related services, or any combination thereof for a specified price for a term up to the service life of the vehicle being contracted.

Any contract for services other than professional services, the statutory length of which contract is for three years or less, may include provisions for no more than one two-year, or two one-year, extensions, subject to the following limitations: a. the contract shall be awarded by resolution of the board of education upon a finding by the board of education that the services are being performed in an effective and efficient manner; b. no such contract shall be extended so that it runs for more than a total of five consecutive years; c. any price change included as part of an extension shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension and shall not exceed the change in the index rate for the 12 months preceding the most recent quarterly calculation available at the time the contract is renewed; and d. the terms and conditions of the contract remain substantially the same.

All multiyear leases and contracts entered into pursuant to this section, including any two-year or one-year extensions, except contracts for insurance coverages, insurance consultant or administrative services, participation or membership in a joint self-insurance fund, risk management programs or related services of a school board insurance group, participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6 or contracts for thermal energy authorized pursuant to subsection a. above, and contracts for the provision or performance of goods or services to promote energy conservation through the production of class I renewable energy, authorized pursuant to subsection o. of this section, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause. All contracts shall cease to have effect at the end of the contracted period and shall not be extended by any mechanism or provision, unless in conformance with the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., except that a contract may be extended by mutual agreement of the parties to the contract when a board of education has commenced rebidding

prior to the time the contract expires or when the awarding of a contract is pending at the time the contract expires.

2. N.J.S.18A:20-4.2 is amended to read as follows:

Powers of boards concerning real property.

18A:20-4.2. The board of education of any school district may, for school purposes:

(a) Purchase, take and condemn lands within the district and lands not exceeding 50 acres in extent without the district but situate in a municipality or municipalities adjoining the district, but no more than 25 acres may be so acquired in any one such municipality, without the district, except with the consent, by ordinance, of such municipality;

(b) Grade, drain and landscape lands owned or to be acquired by it and improve the same in like manner;

(c) Erect, lease for a term not exceeding 50 years, enlarge, improve, repair or furnish buildings;

(d) Borrow money therefor, with or without mortgage; in the case of a type II district without a board of school estimate, when authorized so to do at any annual or special school election; and in the case of a type II district having a board of school estimate, when the amount necessary to be provided therefor shall have been fixed, determined and certified by the board of school estimate; and in the case of a type I district, when an ordinance authorizing expenditures for such purpose is finally adopted by the governing body of a municipality comprised within the district; provided, however, that no such election shall be held nor shall any such resolution of a school estimate board or ordinance of a municipal governing body be introduced to authorize any lease of any building for a term exceeding one year, until the proposed terms of such lease have been reviewed and approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(e) Construct, purchase, lease or otherwise acquire a building with the federal government, the State, a political subdivision thereof or any other individual or entity properly authorized to do business in the State; provided that: (1) the noneducational uses of the building are compatible with the establishment and operation of a school, as determined by the Commissioner of Education; (2) the portion of the building to be used as a school meets regulations of the Department of Education; (3) the board of education has complied with the provisions of law and regulations relating to the selection and approval of sites; and (4) in the case of a lease, that any lease in excess of five years shall be approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(f) Acquire, with the approval of either the commissioner, or voters or board of school estimate, as applicable, improvements or additions to school buildings through lease purchase agreements not in excess of five years. The agreement shall be recorded as an expenditure of the General Fund of the district. The commissioner shall approve the agreement only upon a demonstration by the district that the lease purchase payments and any operating expenses related to the agreement can be included within the district's tax levy growth limitation and will not result in the need for approval by the voters or board of school estimate, as appropriate, of additional spending proposals to maintain existing instructional programs and extracurricular activities. If the commissioner cannot approve the agreement, the board of education may frame a separate question to authorize the lease purchase agreement and obtain voter or board of school estimate approval to enter into the agreement. A district may, without separate prior approval of the commissioner, also acquire equipment through a lease purchase agreement not in excess of five years or in the case of a lease purchase agreement entered into for the acquisition of fossil fuel school buses not in excess of 10 years and in the case of a

lease purchase agreement entered into for the acquisition of electric school buses and related charging equipment and services not in excess of the service life of the electric school buses, provided that the amount of the first installment and each subsequent installment for the lease purchase payments is included in the budget that is advertised and submitted for approval to the voters of the district or the board of school estimate, as appropriate. As used herein, a "lease purchase agreement" refers to any agreement which gives the board of education as lessee the option of purchasing the leased equipment or improvements or additions to existing school buildings during or upon termination of the lease, with credit toward the purchase price of all or part of rental payments which have been made by the board of education in accordance with the lease. As part of such a transaction, the board of education may transfer or lease land or rights in land, including any building thereon, after publicly advertising for proposals for the transfer for nominal or fair market value, to the party selected by the board of education, by negotiation or otherwise, after determining that the proposal is in the best interest of the taxpayers of the district, to construct or to improve and to lease or to own or to have ownership interests in the site and the school building to be leased pursuant to such lease purchase agreement, notwithstanding the provisions of any other law to the contrary. The land and any building thereon which is described in a lease purchase agreement entered into pursuant to this amendatory act, shall be deemed to be and treated as property of the school district, used for school purposes pursuant to R.S.54:4-3.3, and shall not be considered or treated as property leased to another whose property is not exempt, and shall not be assessed as real estate pursuant to section 1 of P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement authorized by this section shall contain a provision making payments thereunder subject to the annual appropriation of funds sufficient to meet the required payments or shall contain an annual cancellation clause and shall require all construction contracts let by public school districts or let by developers or owners of property used for school purposes to be competitively bid, pursuant to N.J.S.18A:18A-1 et seq.;

(g) Establish with an individual or entity authorized to do business in the State a tenancy in common, condominium, horizontal property regime or other joint ownership arrangement on a site contributed by the school district; provided the following conditions are met:

(1) The individual or entity agrees to construct on the site, or provide for the construction thereon, a building or buildings for use of the board of education separately or jointly with the individual or entity, which shall be subject to the joint ownership arrangement;

(2) The provision of the building shall be at no cost or at a reduced cost to the board of education;

(3) The school district shall not make any payment for use of the building other than its pro rata share of costs of maintenance and improvements;

(4) The noneducational uses of the building are compatible with the establishment and operation of a school, as determined by the Commissioner of Education;

(5) The portion of the building to be used as a school, and the site, meet regulations of the Department of Education; and

(6) Any such agreement shall be approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(h) Acquire through sale and lease-back textbooks and non-consumable instructional materials provided that the sale price and principal amount of the lease-back do not exceed the fair market value of the textbooks and instructional materials and that the interest rate applied in the lease-back is consistent with prevailing market rates or is less.

3. Section 42 of P.L.1999, c.23 (C.48:3-91) is amended to read as follows:

C.48:3-91 Government aggregator.

42. a. Pursuant to the provisions of sections 42 through 45 of this act, a government aggregator may obtain: electric generation service, electric related service, gas supply service or gas related service, either separately or bundled, for its own facilities or with other government aggregators; and a government aggregator that is a county or municipality may contract for the provision of electric generation service or gas supply service, either separately or bundled, for the business and residential customers within the territorial jurisdiction of the government aggregator. Such a government aggregator may combine the need for its own facilities for electric generation service or gas supply service with that of business and residential customers.

b. A government aggregator shall purchase electric generation service and gas supply service only from licensed electric power suppliers and licensed gas suppliers.

c. The government aggregator shall enter into the contract for electric generation service, electric related service, gas supply service or gas related service for its own facilities or with other government aggregators under the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.), or the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.), as applicable.

d. Nothing in this act shall preclude the State government or any State independent authority or State college from exercising authority to obtain electric generation service, electric related service, gas supply service or gas related service, either separately or bundled, for its own facilities on an aggregated basis.

e. Nothing in this section shall preclude a government aggregator from aggregating its own accounts for regulated utility services, including basic generation or gas service.

f. Nothing in this act shall preclude any interstate authority or agency from exercising authority to obtain electric generation service or gas supply service, either separately or bundled, for its own facilities in this State, including tenants in this State and other utility customers in this State at such facilities, on an aggregated basis. By exercising such authority, no interstate authority or agency shall be deemed to be a public utility pursuant to R.S. 48:1-1 et seq.; provided, however, that nothing in this act shall be construed to exempt such authority or agency from the payment of the market transition charge or its equivalent, imposed pursuant to section 13 of this act, the transition bond charge or its equivalent, imposed pursuant to section 18 of this act and any societal benefits charge or its equivalent, which may be imposed pursuant to section 12 of this act, to the same extent that other customers of an electric public utility pay such charges in conjunction with any transmission and distribution service provided by an electric public utility to the authority or agency.

g. Notwithstanding any other provision of this act to the contrary, a private aggregator that is a private institution of higher education may enter into a contract with a licensed electric power supplier other than a municipal system or rural electric cooperative for the provision of electric generation service or electric related service, either separately or bundled, including any private aggregator that is a four-year private institution of higher education which is located within the jurisdiction of a municipal system, or within the franchise area of a rural electric cooperative, as the case may be. The right hereunder of a four-year private institution of higher education to enter into a contract with a licensed electric power supplier other than the municipal system or rural electric cooperative shall be subject to the condition that the municipal system or rural electric cooperative shall have the right of first refusal to offer a

competitive, market-based price for electric power. For the purposes of this subsection, "municipal system" means a municipality that provides light, heat or power pursuant to the provisions of R.S.40:62-12 et seq.

h. The "New Jersey School Boards Association," established pursuant to N.J.S.18A:6-45, is authorized to serve as a government aggregator to obtain electric generation service, electric-related service, gas supply service or gas-related service, either separately or bundled, in accordance with the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., for members of the association who wish to voluntarily participate and for counties, municipalities, and other local contracting units who wish to voluntarily participate. For purposes of this subsection, "electric-related service" also includes electric school buses and related goods and services.

i. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing, interim standards governing government energy aggregation programs. Such standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

j. No government aggregator shall implement the provisions of section 42, 43, 44, or 45 of this act, as appropriate, prior to the starting date of retail competition pursuant to section 5 of this act, or the date on which the board adopts interim standards pursuant to subsection i. of this section, whichever is earlier.

4. This act shall take effect immediately.

Approved July 10, 2024.

ASSEMBLY, No. 1677

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblywoman ROSAURA "ROSY" BAGOLIE

District 27 (Essex and Passaic)

SYNOPSIS

Authorizes use of competitive contracting and extended terms for lease and purchase contracts for electric school buses; permits New Jersey School Boards Association to serve as government aggregator to obtain electric school buses.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 6/3/2024)

1 AN ACT concerning public school contracting and electric school
2 buses and amending various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 45 of P.L.1999, c.440 (C.18A:18A-4.1) is amended
8 to read as follows:

9 45. Notwithstanding the provisions of any law, rule or regulation
10 to the contrary, competitive contracting may be used by boards of
11 education in lieu of public bidding for procurement of specialized
12 goods and services the price of which exceeds the bid threshold, for
13 the following purposes:

14 a. The purchase or licensing of proprietary computer software
15 designed for board of education purposes, which may include
16 hardware intended for use with the proprietary software. This
17 subsection shall not be utilized for the purpose of acquiring general
18 purpose computer hardware or software;

19 b. The hiring of a for-profit entity or a not-for-profit entity
20 incorporated under Title 15A of the New Jersey Statutes for the
21 purpose of:

22 (1) the operation, management or administration of recreation or
23 social service facilities or programs; or

24 (2) the operation, management or administration of data
25 processing services;

26 c. Services performed by an organization engaged in providing
27 energy conservation education and training services to train
28 employees of a board of education to reduce consumption of
29 energy;

30 d. Telecommunications transmission or switching services that
31 are not part of a tariff or schedule of charges filed with the Board of
32 Public Utilities;

33 e. The purchase of specialized machinery or equipment of a
34 technical nature, or servicing thereof, which will not reasonably
35 permit the drawing of specifications;

36 f. Food services provided by food service management
37 companies when not part of programs administered by the New
38 Jersey Department of Agriculture, Bureau of Child Nutrition
39 Programs;

40 g. Driver education courses provided by licensed driver
41 education schools;

42 h. At the option of the board of education, any good or service
43 that is exempt from bidding pursuant to N.J.S.18A:18A-5;

44 i. Laboratory testing services;

45 j. Concessions;

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 k. The operation, management or administration of other
2 services, with the approval of the Division of Local Government
3 Services in the Department of Community Affairs;

4 1. The purchase of electric school buses, on-site charging
5 infrastructure for electric school buses, and on-site or off-site
6 related electric school bus and charging infrastructure operation and
7 maintenance services, or any combination thereof.

8 Any purpose included herein shall not be considered by a board
9 of education as an extraordinary unspecifiable service pursuant to
10 paragraph (2) of subsection a. of N.J.S.18A:18A-5.

11 (cf: P.L.2009, c.4, s.2)

12
13 2. N.J.S.18A:18A-42 is amended to read as follows:

14 18A:18A-42. All contracts for the provision or performance of
15 goods or services shall be awarded for a period not to exceed 24
16 consecutive months, except that contracts for professional services
17 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall
18 be awarded for a period not to exceed 12 consecutive months. Any
19 board of education may award a contract for longer periods of time
20 as follows:

21 a. Supplying of:

22 (1) Fuel for heating purposes, for any term not exceeding in the
23 aggregate, three years;

24 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles
25 or equipment, for any term not exceeding in the aggregate, three
26 years;

27 (3) Thermal energy produced by a cogeneration facility, for use
28 for heating or air conditioning or both, for any term not exceeding
29 40 years, when the contract is approved by the Board of Public
30 Utilities. For the purposes of this paragraph, "cogeneration" means
31 the simultaneous production in one facility of electric power and
32 other forms of useful energy such as heating or process steam; or

33 b. Plowing and removal of snow and ice, for any term not
34 exceeding in the aggregate, three years; or

35 c. Collection and disposal of garbage and refuse, for any term
36 not exceeding in the aggregate, three years; or

37 d. Data processing service, for any term of not more than seven
38 years; or

39 e. Insurance, including the purchase of insurance coverages,
40 insurance consultant or administrative services, and including
41 participation in a joint self-insurance fund, risk management
42 program or related services provided by a school board insurance
43 group, or participation in an insurance fund established by a county
44 pursuant to N.J.S.40A:10-6, or a joint insurance fund established
45 pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of
46 not more than three years; or

47 f. Leasing or servicing of automobiles, motor vehicles,
48 electronic communications equipment, machinery and equipment of

1 every nature and kind and textbooks and non-consumable
2 instructional materials, for any term not exceeding in the aggregate,
3 five years; except that contracts for the leasing of fossil fuel school
4 buses may be awarded for any term not exceeding in the aggregate
5 **【ten】** 10 years and contracts for the leasing of electric school buses
6 and related charging equipment and services may be awarded for
7 any term not exceeding the service life of the electric school buses.
8 Contracts awarded pursuant to this subsection shall be awarded only
9 subject to and in accordance with rules and regulations promulgated
10 by the State Board of Education; or

11 g. Supplying of any product or the rendering of any service by
12 a company providing voice, data, transmission or switching
13 services, for a term not exceeding five years; or

14 h. (Deleted by amendment, P.L.1999, c.440.)

15 i. Driver education instruction conducted by private, licensed
16 driver education schools, for any term not exceeding in the
17 aggregate, three years; or

18 j. (Deleted by amendment, P.L.2009, c.4).

19 k. Any single project for the construction, reconstruction or
20 rehabilitation of any public building, structure or facility, or any
21 public works project, including the retention of the services of any
22 architect or engineer in connection therewith, for the length of time
23 authorized and necessary for the completion of the actual
24 construction; or

25 l. Laundry service and the rental, supply and cleaning of
26 uniforms for any term of not more than three years; or

27 m. Food supplies and food services for any term of not more
28 than three years; or

29 n. Purchases made under a contract awarded by the Director of
30 the Division of Purchase and Property in the Department of the
31 Treasury for use by counties, municipalities or other contracting
32 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
33 term not to exceed the term of that contract; **【or】**

34 o. The provision or performance of goods or services for the
35 purpose of producing class I renewable energy, as that term is
36 defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent
37 to, buildings owned by any local board of education, the entire price
38 of which is to be established as a percentage of the resultant savings
39 in energy costs, for a term not to exceed 15 years; provided,
40 however, that these contracts shall be entered into only subject to
41 and in accordance with guidelines promulgated by the Board of
42 Public Utilities establishing a methodology for computing energy
43 cost savings and energy generation costs; or

44 p. The provision or performance of goods or services for the
45 purpose of providing electric school buses, on-site or off-site
46 electric school bus charging infrastructure, and related maintenance
47 and other related services, or any combination thereof for a

1 specified price for a term up to the service life of the vehicle being
2 contracted.

3 Any contract for services other than professional services, the
4 statutory length of which contract is for three years or less, may
5 include provisions for no more than one two-year, or two one-year,
6 extensions, subject to the following limitations: a. the contract shall
7 be awarded by resolution of the board of education upon a finding
8 by the board of education that the services are being performed in
9 an effective and efficient manner; b. no such contract shall be
10 extended so that it runs for more than a total of five consecutive
11 years; c. any price change included as part of an extension shall be
12 based upon the price of the original contract as cumulatively
13 adjusted pursuant to any previous adjustment or extension and shall
14 not exceed the change in the index rate for the 12 months preceding
15 the most recent quarterly calculation available at the time the
16 contract is renewed; and d. the terms and conditions of the contract
17 remain substantially the same.

18 All multiyear leases and contracts entered into pursuant to this
19 section, including any two-year or one-year extensions, except
20 contracts for insurance coverages, insurance consultant or
21 administrative services, participation or membership in a joint self-
22 insurance fund, risk management programs or related services of a
23 school board insurance group, participation in an insurance fund
24 established by a county pursuant to N.J.S.40A:10-6 or contracts for
25 thermal energy authorized pursuant to subsection a. above, and
26 contracts for the provision or performance of goods or services to
27 promote energy conservation through the production of class I
28 renewable energy, authorized pursuant to subsection o. of this
29 section, shall contain a clause making them subject to the
30 availability and appropriation annually of sufficient funds as may
31 be required to meet the extended obligation, or contain an annual
32 cancellation clause. All contracts shall cease to have effect at the
33 end of the contracted period and shall not be extended by any
34 mechanism or provision, unless in conformance with the "Public
35 School Contracts Law," N.J.S.18A:18A-1 et seq., except that a
36 contract may be extended by mutual agreement of the parties to the
37 contract when a board of education has commenced rebidding prior
38 to the time the contract expires or when the awarding of a contract
39 is pending at the time the contract expires.

40 (cf: P.L.2009, c.4, s.3)

41

42 3. N.J.S.18A:20-4.2 is amended to read as follows:

43 18A:20-4.2. The board of education of any school district may,
44 for school purposes:

45 (a) Purchase, take and condemn lands within the district and
46 lands not exceeding 50 acres in extent without the district but
47 situate in a municipality or municipalities adjoining the district, but
48 no more than 25 acres may be so acquired in any one such

1 municipality, without the district, except with the consent, by
2 ordinance, of such municipality;

3 (b) Grade, drain and landscape lands owned or to be acquired by
4 it and improve the same in like manner;

5 (c) Erect, lease for a term not exceeding 50 years, enlarge,
6 improve, repair or furnish buildings;

7 (d) Borrow money therefor, with or without mortgage; in the
8 case of a type II district without a board of school estimate, when
9 authorized so to do at any annual or special school election; and in
10 the case of a type II district having a board of school estimate, when
11 the amount necessary to be provided therefor shall have been fixed,
12 determined and certified by the board of school estimate; and in the
13 case of a type I district, when an ordinance authorizing expenditures
14 for such purpose is finally adopted by the governing body of a
15 municipality comprised within the district; provided, however, that
16 no such election shall be held nor shall any such resolution of a
17 school estimate board or ordinance of a municipal governing body
18 be introduced to authorize any lease of any building for a term
19 exceeding one year, until the proposed terms of such lease have
20 been reviewed and approved by the Commissioner of Education and
21 the Local Finance Board in the Department of Community Affairs;

22 (e) Construct, purchase, lease or otherwise acquire a building
23 with the federal government, the State, a political subdivision
24 thereof or any other individual or entity properly authorized to do
25 business in the State; provided that: (1) the noneducational uses of
26 the building are compatible with the establishment and operation of
27 a school, as determined by the Commissioner of Education; (2) the
28 portion of the building to be used as a school meets regulations of
29 the Department of Education; (3) the board of education has
30 complied with the provisions of law and regulations relating to the
31 selection and approval of sites; and (4) in the case of a lease, that
32 any lease in excess of five years shall be approved by the
33 Commissioner of Education and the Local Finance Board in the
34 Department of Community Affairs;

35 (f) Acquire, with the approval of either the commissioner, or
36 voters or board of school estimate, as applicable, improvements or
37 additions to school buildings through lease purchase agreements not
38 in excess of five years. The agreement shall be recorded as an
39 expenditure of the General Fund of the district. The commissioner
40 shall approve the agreement only upon a demonstration by the
41 district that the lease purchase payments and any operating
42 expenses related to the agreement can be included within the
43 district's tax levy growth limitation and will not result in the need
44 for approval by the voters or board of school estimate, as
45 appropriate, of additional spending proposals to maintain existing
46 instructional programs and extracurricular activities. If the
47 commissioner cannot approve the agreement, the board of education
48 may frame a separate question to authorize the lease purchase

1 agreement and obtain voter or board of school estimate approval to
2 enter into the agreement. A district may, without separate prior
3 approval of the commissioner, also acquire equipment through a
4 lease purchase agreement not in excess of five years or in the case
5 of a lease purchase agreement entered into for the acquisition of
6 fossil fuel school buses not in excess of 10 years and in the case of
7 a lease purchase agreement entered into for the acquisition of
8 electric school buses and related charging equipment and services
9 not in excess of the service life of the electric school buses,
10 provided that the amount of the first installment and each
11 subsequent installment for the lease purchase payments is included
12 in the budget that is advertised and submitted for approval to the
13 voters of the district or the board of school estimate, as appropriate.
14 As used herein, a "lease purchase agreement" refers to any
15 agreement which gives the board of education as lessee the option
16 of purchasing the leased equipment or improvements or additions to
17 existing school buildings during or upon termination of the lease,
18 with credit toward the purchase price of all or part of rental
19 payments which have been made by the board of education in
20 accordance with the lease. As part of such a transaction, the board
21 of education may transfer or lease land or rights in land, including
22 any building thereon, after publicly advertising for proposals for the
23 transfer for nominal or fair market value, to the party selected by
24 the board of education, by negotiation or otherwise, after
25 determining that the proposal is in the best interest of the taxpayers
26 of the district, to construct or to improve and to lease or to own or
27 to have ownership interests in the site and the school building to be
28 leased pursuant to such lease purchase agreement, notwithstanding
29 the provisions of any other law to the contrary. The land and any
30 building thereon which is described in a lease purchase agreement
31 entered into pursuant to this amendatory act, shall be deemed to be
32 and treated as property of the school district, used for school
33 purposes pursuant to R.S.54:4-3.3, and shall not be considered or
34 treated as property leased to another whose property is not exempt,
35 and shall not be assessed as real estate pursuant to section 1 of
36 P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement
37 authorized by this section shall contain a provision making
38 payments thereunder subject to the annual appropriation of funds
39 sufficient to meet the required payments or shall contain an annual
40 cancellation clause and shall require all construction contracts let by
41 public school districts or let by developers or owners of property
42 used for school purposes to be competitively bid, pursuant to
43 N.J.S.18A:18A-1 et seq.;

44 (g) Establish with an individual or entity authorized to do
45 business in the State a tenancy in common, condominium,
46 horizontal property regime or other joint ownership arrangement on
47 a site contributed by the school district; provided the following
48 conditions are met:

- 1 (1) The individual or entity agrees to construct on the site, or
2 provide for the construction thereon, a building or buildings for use
3 of the board of education separately or jointly with the individual or
4 entity, which shall be subject to the joint ownership arrangement;
- 5 (2) The provision of the building shall be at no cost or at a
6 reduced cost to the board of education;
- 7 (3) The school district shall not make any payment for use of the
8 building other than its pro rata share of costs of maintenance and
9 improvements;
- 10 (4) The noneducational uses of the building are compatible with
11 the establishment and operation of a school, as determined by the
12 Commissioner of Education;
- 13 (5) The portion of the building to be used as a school, and the
14 site, meet regulations of the Department of Education; and
- 15 (6) Any such agreement shall be approved by the Commissioner
16 of Education and the Local Finance Board in the Department of
17 Community Affairs;
- 18 (h) Acquire through sale and lease-back textbooks and non-
19 consumable instructional materials provided that the sale price and
20 principal amount of the lease-back do not exceed the fair market
21 value of the textbooks and instructional materials and that the
22 interest rate applied in the lease-back is consistent with prevailing
23 market rates or is less.
- 24 (cf: P.L.2010, c.44, s.7)
- 25
- 26 4. Section 42 of P.L.1999, c.23 (C.48:3-91) is amended to read
27 as follows:
- 28 42. a. Pursuant to the provisions of sections 42 through 45 of
29 this act, a government aggregator may obtain: electric generation
30 service, electric related service, gas supply service or gas related
31 service, either separately or bundled, for its own facilities or with
32 other government aggregators; and a government aggregator that is
33 a county or municipality may contract for the provision of electric
34 generation service or gas supply service, either separately or
35 bundled, for the business and residential customers within the
36 territorial jurisdiction of the government aggregator. Such a
37 government aggregator may combine the need for its own facilities
38 for electric generation service or gas supply service with that of
39 business and residential customers.
- 40 b. A government aggregator shall purchase electric generation
41 service and gas supply service only from licensed electric power
42 suppliers and licensed gas suppliers.
- 43 c. The government aggregator shall enter into the contract for
44 electric generation service, electric related service, gas supply
45 service or gas related service for its own facilities or with other
46 government aggregators under the provisions of the "Local Public
47 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public
48 School Contracts Law," N.J.S.18A:18A-1 et seq., the "County

1 College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.),
2 or the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et
3 seq.), as applicable.

4 d. Nothing in this act shall preclude the State government or
5 any State independent authority or State college from exercising
6 authority to obtain electric generation service, electric related
7 service, gas supply service or gas related service, either separately
8 or bundled, for its own facilities on an aggregated basis.

9 e. Nothing in this section shall preclude a government
10 aggregator from aggregating its own accounts for regulated utility
11 services, including basic generation or gas service.

12 f. Nothing in this act shall preclude any interstate authority or
13 agency from exercising authority to obtain electric generation
14 service or gas supply service, either separately or bundled, for its
15 own facilities in this State, including tenants in this State and other
16 utility customers in this State at such facilities, on an aggregated
17 basis. By exercising such authority, no interstate authority or
18 agency shall be deemed to be a public utility pursuant to R.S. 48:1-
19 1 et seq.; provided, however, that nothing in this act shall be
20 construed to exempt such authority or agency from the payment of
21 the market transition charge or its equivalent, imposed pursuant to
22 section 13 of this act, the transition bond charge or its equivalent,
23 imposed pursuant to section 18 of this act and any societal benefits
24 charge or its equivalent, which may be imposed pursuant to section
25 12 of this act, to the same extent that other customers of an electric
26 public utility pay such charges in conjunction with any transmission
27 and distribution service provided by an electric public utility to the
28 authority or agency.

29 g. Notwithstanding any other provision of this act to the
30 contrary, a private aggregator that is a private institution of higher
31 education may enter into a contract with a licensed electric power
32 supplier other than a municipal system or rural electric cooperative
33 for the provision of electric generation service or electric related
34 service, either separately or bundled, including any private
35 aggregator that is a four-year private institution of higher education
36 which is located within the jurisdiction of a municipal system, or
37 within the franchise area of a rural electric cooperative, as the case
38 may be. The right hereunder of a four-year private institution of
39 higher education to enter into a contract with a licensed electric
40 power supplier other than the municipal system or rural electric
41 cooperative shall be subject to the condition that the municipal
42 system or rural electric cooperative shall have the right of first
43 refusal to offer a competitive, market-based price for electric
44 power. For the purposes of this subsection, "municipal system"
45 means a municipality that provides light, heat or power pursuant to
46 the provisions of R.S.40:62-12 et seq.

47 h. The "New Jersey School Boards Association," established
48 pursuant to N.J.S.18A:6-45, is authorized to serve as a government

1 aggregator to obtain electric generation service, electric related
2 service, gas supply service or gas related service, either separately
3 or bundled, in accordance with the "Public School Contracts Law,"
4 N.J.S.18A:18A-1 et seq., for members of the association who wish
5 to voluntarily participate. For purposes of this subsection, "electric
6 related service" includes electric school buses and related goods and
7 services, including construction projects directly related to those
8 goods and services either individually or in combination.

9 i. Notwithstanding any provisions of the "Administrative
10 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
11 contrary, the board shall initiate a proceeding and shall adopt, after
12 notice, provision of the opportunity for comment, and public
13 hearing, interim standards governing government energy
14 aggregation programs. Such standards shall be effective as
15 regulations immediately upon filing with the Office of
16 Administrative Law and shall be effective for a period not to exceed
17 18 months, and may, thereafter, be amended, adopted or readopted
18 by the board in accordance with the provisions of the
19 "Administrative Procedure Act."

20 j. No government aggregator shall implement the provisions of
21 section 42, 43, 44, or 45 of this act, as appropriate, prior to the
22 starting date of retail competition pursuant to section 5 of this act,
23 or the date on which the board adopts interim standards pursuant to
24 subsection i. of this section, whichever is earlier.

25 (cf: P.L.2003, c.248, s.2)

26

27 5. This act shall take effect immediately.

28

29

30

STATEMENT

31

32 This bill authorizes a board of education to use competitive
33 contracting and enter into extended contracts and lease terms for
34 electric school buses. The bill also permits the New Jersey School
35 Boards Association to serve as a government aggregator to obtain
36 electric school buses and related goods and services.

37 Under current law a school district may utilize competitive
38 contracting in lieu of public bidding for the procurement of certain
39 listed specialized goods and services that exceed the bid threshold.
40 This bill authorizes a board of education to utilize competitive
41 contracting for the purchase of electric school buses, on-site
42 charging infrastructure for electric school buses, and on-site or off-
43 site related electric school bus and charging infrastructure operation
44 and maintenance services, or any combination thereof.

45 Current law permits a school district to enter into a contract for
46 the leasing of school buses for a term not exceeding in the
47 aggregate 10 years. The bill provides that a school district may
48 enter into a contract for the leasing of electric school buses and

1 related charging equipment and services for a term not in excess of
2 the service life of the electric school bus. The bill also clarifies that
3 the 10-year contract term limit continues to apply to fossil fuel
4 school buses.

5 Also under existing law, a school district may enter into a lease
6 purchase agreement for the acquisition of a school bus for a term
7 not in excess of 10 years. This bill extends the term of a lease
8 purchase agreement in the case of electric school buses and related
9 charging equipment and services to the service life of the electric
10 school bus. The bill also clarifies that the 10-year lease purchase
11 agreement term limit continues to apply to fossil fuel school buses.

12 Finally, the bill amends the “Electric Discount and Energy
13 Competition Act,” P.L.1999, c.23 (C.48:3-49 et al), to provide that
14 the New Jersey School Boards Association may serve as a
15 government aggregator to obtain electric school buses and related
16 goods and services, including construction projects directly related
17 to those goods and services either individually or in combination.

[First Reprint]

ASSEMBLY, No. 1677

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblywoman ROSAURA "ROSY" BAGOLIE

District 27 (Essex and Passaic)

Assemblyman STERLEY S. STANLEY

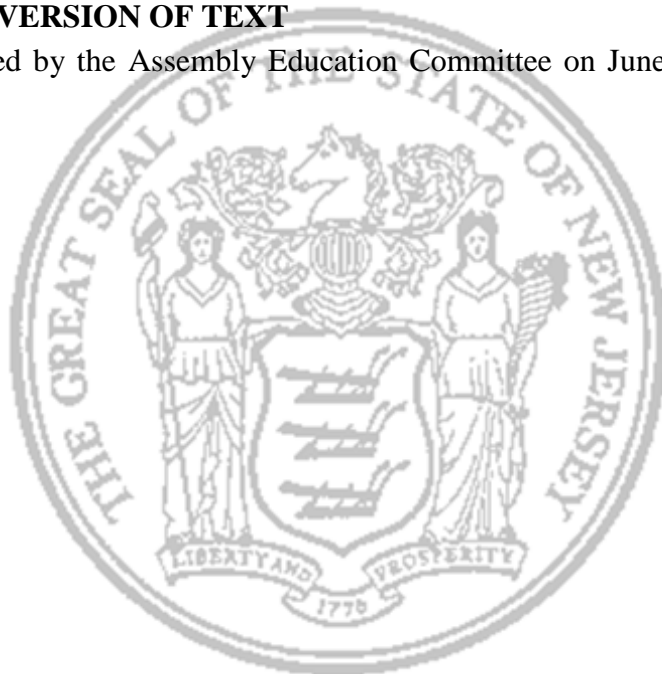
District 18 (Middlesex)

SYNOPSIS

Authorizes use of competitive contracting and extended terms for lease and purchase contracts for electric school buses; permits New Jersey School Boards Association to serve as government aggregator to obtain energy services for local units.

CURRENT VERSION OF TEXT

As reported by the Assembly Education Committee on June 6, 2024, with amendments.



(Sponsorship Updated As Of: 6/6/2024)

1 AN ACT concerning ¹**[public school contracting and]**¹ electric
2 school buses ¹and government aggregation of certain energy
3 services,¹ and amending various parts of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 45 of P.L.1999, c.440 (C.18A:18A-4.1) is amended
9 to read as follows:

10 45. Notwithstanding the provisions of any law, rule or regulation
11 to the contrary, competitive contracting may be used by boards of
12 education in lieu of public bidding for procurement of specialized
13 goods and services the price of which exceeds the bid threshold, for
14 the following purposes:

15 a. The purchase or licensing of proprietary computer software
16 designed for board of education purposes, which may include
17 hardware intended for use with the proprietary software. This
18 subsection shall not be utilized for the purpose of acquiring general
19 purpose computer hardware or software;

20 b. The hiring of a for-profit entity or a not-for-profit entity
21 incorporated under Title 15A of the New Jersey Statutes for the
22 purpose of:

23 (1) the operation, management or administration of recreation or
24 social service facilities or programs; or

25 (2) the operation, management or administration of data
26 processing services;

27 c. Services performed by an organization engaged in providing
28 energy conservation education and training services to train
29 employees of a board of education to reduce consumption of
30 energy;

31 d. Telecommunications transmission or switching services that
32 are not part of a tariff or schedule of charges filed with the Board of
33 Public Utilities;

34 e. The purchase of specialized machinery or equipment of a
35 technical nature, or servicing thereof, which will not reasonably
36 permit the drawing of specifications;

37 f. Food services provided by food service management
38 companies when not part of programs administered by the New
39 Jersey Department of Agriculture, Bureau of Child Nutrition
40 Programs;

41 g. Driver education courses provided by licensed driver
42 education schools;

43 h. At the option of the board of education, any good or service
44 that is exempt from bidding pursuant to N.J.S.18A:18A-5;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AED committee amendments adopted June 6, 2024.

- 1 i. Laboratory testing services;
 - 2 j. Concessions;
 - 3 k. The operation, management or administration of other
4 services, with the approval of the Division of Local Government
5 Services in the Department of Community Affairs;
 - 6 l. The purchase of electric school buses, on-site charging
7 infrastructure for electric school buses, and on-site or off-site
8 related electric school bus and charging infrastructure operation and
9 maintenance services, or any combination thereof.
- 10 Any purpose included herein shall not be considered by a board
11 of education as an extraordinary unspecifiable service pursuant to
12 paragraph (2) of subsection a. of N.J.S.18A:18A-5.
13 (cf: P.L.2009, c.4, s.2)
14
- 15 2. N.J.S.18A:18A-42 is amended to read as follows:
16 18A:18A-42. All contracts for the provision or performance of
17 goods or services shall be awarded for a period not to exceed 24
18 consecutive months, except that contracts for professional services
19 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall
20 be awarded for a period not to exceed 12 consecutive months. Any
21 board of education may award a contract for longer periods of time
22 as follows:
 - 23 a. Supplying of:
 - 24 (1) Fuel for heating purposes, for any term not exceeding in the
25 aggregate, three years;
 - 26 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles
27 or equipment, for any term not exceeding in the aggregate, three
28 years;
 - 29 (3) Thermal energy produced by a cogeneration facility, for use
30 for heating or air conditioning or both, for any term not exceeding
31 40 years, when the contract is approved by the Board of Public
32 Utilities. For the purposes of this paragraph, "cogeneration" means
33 the simultaneous production in one facility of electric power and
34 other forms of useful energy such as heating or process steam; or
 - 35 b. Plowing and removal of snow and ice, for any term not
36 exceeding in the aggregate, three years; or
 - 37 c. Collection and disposal of garbage and refuse, for any term
38 not exceeding in the aggregate, three years; or
 - 39 d. Data processing service, for any term of not more than seven
40 years; or
 - 41 e. Insurance, including the purchase of insurance coverages,
42 insurance consultant or administrative services, and including
43 participation in a joint self-insurance fund, risk management
44 program or related services provided by a school board insurance
45 group, or participation in an insurance fund established by a county
46 pursuant to N.J.S.40A:10-6, or a joint insurance fund established
47 pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of
48 not more than three years; or

- 1 f. Leasing or servicing of automobiles, motor vehicles,
2 electronic communications equipment, machinery and equipment of
3 every nature and kind and textbooks and non-consumable
4 instructional materials, for any term not exceeding in the aggregate,
5 five years; except that contracts for the leasing of fossil fuel school
6 buses may be awarded for any term not exceeding in the aggregate
7 **[ten]** 10 years and contracts for the leasing of electric school buses
8 and related charging equipment and services may be awarded for
9 any term not exceeding the service life of the electric school buses.
10 Contracts awarded pursuant to this subsection shall be awarded only
11 subject to and in accordance with rules and regulations promulgated
12 by the State Board of Education; or
- 13 g. Supplying of any product or the rendering of any service by
14 a company providing voice, data, transmission or switching
15 services, for a term not exceeding five years; or
- 16 h. (Deleted by amendment, P.L.1999, c.440.)
- 17 i. Driver education instruction conducted by private, licensed
18 driver education schools, for any term not exceeding in the
19 aggregate, three years; or
- 20 j. (Deleted by amendment, P.L.2009, c.4).
- 21 k. Any single project for the construction, reconstruction or
22 rehabilitation of any public building, structure or facility, or any
23 public works project, including the retention of the services of any
24 architect or engineer in connection therewith, for the length of time
25 authorized and necessary for the completion of the actual
26 construction; or
- 27 l. Laundry service and the rental, supply and cleaning of
28 uniforms for any term of not more than three years; or
- 29 m. Food supplies and food services for any term of not more
30 than three years; or
- 31 n. Purchases made under a contract awarded by the Director of
32 the Division of Purchase and Property in the Department of the
33 Treasury for use by counties, municipalities or other contracting
34 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
35 term not to exceed the term of that contract; **[or]**
- 36 o. The provision or performance of goods or services for the
37 purpose of producing class I renewable energy, as that term is
38 defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent
39 to, buildings owned by any local board of education, the entire price
40 of which is to be established as a percentage of the resultant savings
41 in energy costs, for a term not to exceed 15 years; provided,
42 however, that these contracts shall be entered into only subject to
43 and in accordance with guidelines promulgated by the Board of
44 Public Utilities establishing a methodology for computing energy
45 cost savings and energy generation costs; or
- 46 p. The provision or performance of goods or services for the
47 purpose of providing electric school buses, on-site or off-site
48 electric school bus charging infrastructure, and related maintenance

1 and other related services, or any combination thereof for a
2 specified price for a term up to the service life of the vehicle being
3 contracted.

4 Any contract for services other than professional services, the
5 statutory length of which contract is for three years or less, may
6 include provisions for no more than one two-year, or two one-year,
7 extensions, subject to the following limitations: a. the contract shall
8 be awarded by resolution of the board of education upon a finding
9 by the board of education that the services are being performed in
10 an effective and efficient manner; b. no such contract shall be
11 extended so that it runs for more than a total of five consecutive
12 years; c. any price change included as part of an extension shall be
13 based upon the price of the original contract as cumulatively
14 adjusted pursuant to any previous adjustment or extension and shall
15 not exceed the change in the index rate for the 12 months preceding
16 the most recent quarterly calculation available at the time the
17 contract is renewed; and d. the terms and conditions of the contract
18 remain substantially the same.

19 All multiyear leases and contracts entered into pursuant to this
20 section, including any two-year or one-year extensions, except
21 contracts for insurance coverages, insurance consultant or
22 administrative services, participation or membership in a joint self-
23 insurance fund, risk management programs or related services of a
24 school board insurance group, participation in an insurance fund
25 established by a county pursuant to N.J.S.40A:10-6 or contracts for
26 thermal energy authorized pursuant to subsection a. above, and
27 contracts for the provision or performance of goods or services to
28 promote energy conservation through the production of class I
29 renewable energy, authorized pursuant to subsection o. of this
30 section, shall contain a clause making them subject to the
31 availability and appropriation annually of sufficient funds as may
32 be required to meet the extended obligation, or contain an annual
33 cancellation clause. All contracts shall cease to have effect at the
34 end of the contracted period and shall not be extended by any
35 mechanism or provision, unless in conformance with the "Public
36 School Contracts Law," N.J.S.18A:18A-1 et seq., except that a
37 contract may be extended by mutual agreement of the parties to the
38 contract when a board of education has commenced rebidding prior
39 to the time the contract expires or when the awarding of a contract
40 is pending at the time the contract expires.

41 (cf: P.L.2009, c.4, s.3)

42

43 3. N.J.S.18A:20-4.2 is amended to read as follows:

44 18A:20-4.2. The board of education of any school district may,
45 for school purposes:

46 (a) Purchase, take and condemn lands within the district and
47 lands not exceeding 50 acres in extent without the district but
48 situate in a municipality or municipalities adjoining the district, but

- 1 no more than 25 acres may be so acquired in any one such
2 municipality, without the district, except with the consent, by
3 ordinance, of such municipality;
- 4 (b) Grade, drain and landscape lands owned or to be acquired by
5 it and improve the same in like manner;
- 6 (c) Erect, lease for a term not exceeding 50 years, enlarge,
7 improve, repair or furnish buildings;
- 8 (d) Borrow money therefor, with or without mortgage; in the
9 case of a type II district without a board of school estimate, when
10 authorized so to do at any annual or special school election; and in
11 the case of a type II district having a board of school estimate, when
12 the amount necessary to be provided therefor shall have been fixed,
13 determined and certified by the board of school estimate; and in the
14 case of a type I district, when an ordinance authorizing expenditures
15 for such purpose is finally adopted by the governing body of a
16 municipality comprised within the district; provided, however, that
17 no such election shall be held nor shall any such resolution of a
18 school estimate board or ordinance of a municipal governing body
19 be introduced to authorize any lease of any building for a term
20 exceeding one year, until the proposed terms of such lease have
21 been reviewed and approved by the Commissioner of Education and
22 the Local Finance Board in the Department of Community Affairs;
- 23 (e) Construct, purchase, lease or otherwise acquire a building
24 with the federal government, the State, a political subdivision
25 thereof or any other individual or entity properly authorized to do
26 business in the State; provided that: (1) the noneducational uses of
27 the building are compatible with the establishment and operation of
28 a school, as determined by the Commissioner of Education; (2) the
29 portion of the building to be used as a school meets regulations of
30 the Department of Education; (3) the board of education has
31 complied with the provisions of law and regulations relating to the
32 selection and approval of sites; and (4) in the case of a lease, that
33 any lease in excess of five years shall be approved by the
34 Commissioner of Education and the Local Finance Board in the
35 Department of Community Affairs;
- 36 (f) Acquire, with the approval of either the commissioner, or
37 voters or board of school estimate, as applicable, improvements or
38 additions to school buildings through lease purchase agreements not
39 in excess of five years. The agreement shall be recorded as an
40 expenditure of the General Fund of the district. The commissioner
41 shall approve the agreement only upon a demonstration by the
42 district that the lease purchase payments and any operating
43 expenses related to the agreement can be included within the
44 district's tax levy growth limitation and will not result in the need
45 for approval by the voters or board of school estimate, as
46 appropriate, of additional spending proposals to maintain existing
47 instructional programs and extracurricular activities. If the
48 commissioner cannot approve the agreement, the board of education

1 may frame a separate question to authorize the lease purchase
2 agreement and obtain voter or board of school estimate approval to
3 enter into the agreement. A district may, without separate prior
4 approval of the commissioner, also acquire equipment through a
5 lease purchase agreement not in excess of five years or in the case
6 of a lease purchase agreement entered into for the acquisition of
7 fossil fuel school buses not in excess of 10 years and in the case of
8 a lease purchase agreement entered into for the acquisition of
9 electric school buses and related charging equipment and services
10 not in excess of the service life of the electric school buses,
11 provided that the amount of the first installment and each
12 subsequent installment for the lease purchase payments is included
13 in the budget that is advertised and submitted for approval to the
14 voters of the district or the board of school estimate, as appropriate.
15 As used herein, a "lease purchase agreement" refers to any
16 agreement which gives the board of education as lessee the option
17 of purchasing the leased equipment or improvements or additions to
18 existing school buildings during or upon termination of the lease,
19 with credit toward the purchase price of all or part of rental
20 payments which have been made by the board of education in
21 accordance with the lease. As part of such a transaction, the board
22 of education may transfer or lease land or rights in land, including
23 any building thereon, after publicly advertising for proposals for the
24 transfer for nominal or fair market value, to the party selected by
25 the board of education, by negotiation or otherwise, after
26 determining that the proposal is in the best interest of the taxpayers
27 of the district, to construct or to improve and to lease or to own or
28 to have ownership interests in the site and the school building to be
29 leased pursuant to such lease purchase agreement, notwithstanding
30 the provisions of any other law to the contrary. The land and any
31 building thereon which is described in a lease purchase agreement
32 entered into pursuant to this amendatory act, shall be deemed to be
33 and treated as property of the school district, used for school
34 purposes pursuant to R.S.54:4-3.3, and shall not be considered or
35 treated as property leased to another whose property is not exempt,
36 and shall not be assessed as real estate pursuant to section 1 of
37 P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement
38 authorized by this section shall contain a provision making
39 payments thereunder subject to the annual appropriation of funds
40 sufficient to meet the required payments or shall contain an annual
41 cancellation clause and shall require all construction contracts let by
42 public school districts or let by developers or owners of property
43 used for school purposes to be competitively bid, pursuant to
44 N.J.S.18A:18A-1 et seq.;

45 (g) Establish with an individual or entity authorized to do
46 business in the State a tenancy in common, condominium,
47 horizontal property regime or other joint ownership arrangement on

1 a site contributed by the school district; provided the following
2 conditions are met:

3 (1) The individual or entity agrees to construct on the site, or
4 provide for the construction thereon, a building or buildings for use
5 of the board of education separately or jointly with the individual or
6 entity, which shall be subject to the joint ownership arrangement;

7 (2) The provision of the building shall be at no cost or at a
8 reduced cost to the board of education;

9 (3) The school district shall not make any payment for use of the
10 building other than its pro rata share of costs of maintenance and
11 improvements;

12 (4) The noneducational uses of the building are compatible with
13 the establishment and operation of a school, as determined by the
14 Commissioner of Education;

15 (5) The portion of the building to be used as a school, and the
16 site, meet regulations of the Department of Education; and

17 (6) Any such agreement shall be approved by the Commissioner
18 of Education and the Local Finance Board in the Department of
19 Community Affairs;

20 (h) Acquire through sale and lease-back textbooks and non-
21 consumable instructional materials provided that the sale price and
22 principal amount of the lease-back do not exceed the fair market
23 value of the textbooks and instructional materials and that the
24 interest rate applied in the lease-back is consistent with prevailing
25 market rates or is less.

26 (cf: P.L.2010, c.44, s.7)

27

28 4. Section 42 of P.L.1999, c.23 (C.48:3-91) is amended to read as
29 follows:

30 42. a. Pursuant to the provisions of sections 42 through 45 of this
31 act, a government aggregator may obtain: electric generation service,
32 electric related service, gas supply service or gas related service, either
33 separately or bundled, for its own facilities or with other government
34 aggregators; and a government aggregator that is a county or
35 municipality may contract for the provision of electric generation
36 service or gas supply service, either separately or bundled, for the
37 business and residential customers within the territorial jurisdiction of
38 the government aggregator. Such a government aggregator may
39 combine the need for its own facilities for electric generation service
40 or gas supply service with that of business and residential customers.

41 b. A government aggregator shall purchase electric generation
42 service and gas supply service only from licensed electric power
43 suppliers and licensed gas suppliers.

44 c. The government aggregator shall enter into the contract for
45 electric generation service, electric related service, gas supply service
46 or gas related service for its own facilities or with other government
47 aggregators under the provisions of the "Local Public Contracts Law,"
48 P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts

1 Law," N.J.S.18A:18A-1 et seq., the "County College Contracts Law,"
2 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), or the "Interlocal Services
3 Act," P.L.1973, c.208 (C.40:8A-1 et seq.), as applicable.

4 d. Nothing in this act shall preclude the State government or any
5 State independent authority or State college from exercising authority
6 to obtain electric generation service, electric related service, gas
7 supply service or gas related service, either separately or bundled, for
8 its own facilities on an aggregated basis.

9 e. Nothing in this section shall preclude a government aggregator
10 from aggregating its own accounts for regulated utility services,
11 including basic generation or gas service.

12 f. Nothing in this act shall preclude any interstate authority or
13 agency from exercising authority to obtain electric generation service
14 or gas supply service, either separately or bundled, for its own
15 facilities in this State, including tenants in this State and other utility
16 customers in this State at such facilities, on an aggregated basis. By
17 exercising such authority, no interstate authority or agency shall be
18 deemed to be a public utility pursuant to R.S. 48:1-1 et seq.; provided,
19 however, that nothing in this act shall be construed to exempt such
20 authority or agency from the payment of the market transition charge
21 or its equivalent, imposed pursuant to section 13 of this act, the
22 transition bond charge or its equivalent, imposed pursuant to section
23 18 of this act and any societal benefits charge or its equivalent, which
24 may be imposed pursuant to section 12 of this act, to the same extent
25 that other customers of an electric public utility pay such charges in
26 conjunction with any transmission and distribution service provided by
27 an electric public utility to the authority or agency.

28 g. Notwithstanding any other provision of this act to the contrary,
29 a private aggregator that is a private institution of higher education
30 may enter into a contract with a licensed electric power supplier other
31 than a municipal system or rural electric cooperative for the provision
32 of electric generation service or electric related service, either
33 separately or bundled, including any private aggregator that is a four-
34 year private institution of higher education which is located within the
35 jurisdiction of a municipal system, or within the franchise area of a
36 rural electric cooperative, as the case may be. The right hereunder of a
37 four-year private institution of higher education to enter into a contract
38 with a licensed electric power supplier other than the municipal system
39 or rural electric cooperative shall be subject to the condition that the
40 municipal system or rural electric cooperative shall have the right of
41 first refusal to offer a competitive, market-based price for electric
42 power. For the purposes of this subsection, "municipal system" means
43 a municipality that provides light, heat or power pursuant to the
44 provisions of R.S.40:62-12 et seq.

45 h. The "New Jersey School Boards Association," established
46 pursuant to N.J.S.18A:6-45, is authorized to serve as a government
47 aggregator to obtain electric generation service, electric related
48 service, gas supply service or gas related service, either separately or

1 bundled, in accordance with the "Public School Contracts Law,"
2 N.J.S.18A:18A-1 et seq., for members of the association who wish to
3 voluntarily participate ¹and for counties, municipalities, and other
4 local contracting units who wish to voluntarily participate¹. For
5 purposes of this subsection, "electric related service" ¹also¹ includes
6 electric school buses and related goods and services, including
7 construction projects directly related to those goods and services either
8 individually or in combination.

9 i. Notwithstanding any provisions of the "Administrative
10 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
11 the board shall initiate a proceeding and shall adopt, after notice,
12 provision of the opportunity for comment, and public hearing, interim
13 standards governing government energy aggregation programs. Such
14 standards shall be effective as regulations immediately upon filing
15 with the Office of Administrative Law and shall be effective for a
16 period not to exceed 18 months, and may, thereafter, be amended,
17 adopted or readopted by the board in accordance with the provisions of
18 the "Administrative Procedure Act."

19 j. No government aggregator shall implement the provisions of
20 section 42, 43, 44, or 45 of this act, as appropriate, prior to the starting
21 date of retail competition pursuant to section 5 of this act, or the date
22 on which the board adopts interim standards pursuant to subsection i.
23 of this section, whichever is earlier.

24 (cf: P.L.2003, c.248, s.2)

25

26 5. This act shall take effect immediately.

[Second Reprint]

ASSEMBLY, No. 1677

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblywoman ROSAURA "ROSY" BAGOLIE

District 27 (Essex and Passaic)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblyman Rodriguez, Assemblywoman Haider, Assemblymen Miller, Calabrese, Assemblywoman Speight, Senators Timberlake and Zwicker

SYNOPSIS

Authorizes extended terms for lease and purchase contracts for electric school buses; permits New Jersey School Boards Association to serve as government aggregator to obtain energy services for local units.

CURRENT VERSION OF TEXT

As reported by the Assembly Budget Committee on June 26, 2024, with amendments.

(Sponsorship Updated As Of: 6/28/2024)

1 AN ACT concerning ¹**[public school contracting and]**¹ electric
2 school buses ¹and government aggregation of certain energy
3 services,¹ and amending various parts of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 ²**[1.** Section 45 of P.L.1999, c.440 (C.18A:18A-4.1) is amended
9 to read as follows:

10 45. Notwithstanding the provisions of any law, rule or regulation
11 to the contrary, competitive contracting may be used by boards of
12 education in lieu of public bidding for procurement of specialized
13 goods and services the price of which exceeds the bid threshold, for
14 the following purposes:

15 a. The purchase or licensing of proprietary computer software
16 designed for board of education purposes, which may include
17 hardware intended for use with the proprietary software. This
18 subsection shall not be utilized for the purpose of acquiring general
19 purpose computer hardware or software;

20 b. The hiring of a for-profit entity or a not-for-profit entity
21 incorporated under Title 15A of the New Jersey Statutes for the
22 purpose of:

23 (1) the operation, management or administration of recreation or
24 social service facilities or programs; or

25 (2) the operation, management or administration of data
26 processing services;

27 c. Services performed by an organization engaged in providing
28 energy conservation education and training services to train
29 employees of a board of education to reduce consumption of
30 energy;

31 d. Telecommunications transmission or switching services that
32 are not part of a tariff or schedule of charges filed with the Board of
33 Public Utilities;

34 e. The purchase of specialized machinery or equipment of a
35 technical nature, or servicing thereof, which will not reasonably
36 permit the drawing of specifications;

37 f. Food services provided by food service management
38 companies when not part of programs administered by the New
39 Jersey Department of Agriculture, Bureau of Child Nutrition
40 Programs;

41 g. Driver education courses provided by licensed driver
42 education schools;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AED committee amendments adopted June 6, 2024.

²Assembly ABU committee amendments adopted June 26, 2024.

1 h. At the option of the board of education, any good or service
2 that is exempt from bidding pursuant to N.J.S.18A:18A-5;

3 i. Laboratory testing services;

4 j. Concessions;

5 k. The operation, management or administration of other
6 services, with the approval of the Division of Local Government
7 Services in the Department of Community Affairs;

8 l. The purchase of electric school buses, on-site charging
9 infrastructure for electric school buses, and on-site or off-site
10 related electric school bus and charging infrastructure operation and
11 maintenance services, or any combination thereof.

12 Any purpose included herein shall not be considered by a board
13 of education as an extraordinary unspecifiable service pursuant to
14 paragraph (2) of subsection a. of N.J.S.18A:18A-5.

15 (cf: P.L.2009, c.4, s.2)]²

16
17 ²[2.] 1.² N.J.S.18A:18A-42 is amended to read as follows:

18 18A:18A-42. All contracts for the provision or performance of
19 goods or services shall be awarded for a period not to exceed 24
20 consecutive months, except that contracts for professional services
21 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall
22 be awarded for a period not to exceed 12 consecutive months. Any
23 board of education may award a contract for longer periods of time
24 as follows:

25 a. Supplying of:

26 (1) Fuel for heating purposes, for any term not exceeding in the
27 aggregate, three years;

28 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles
29 or equipment, for any term not exceeding in the aggregate, three
30 years;

31 (3) Thermal energy produced by a cogeneration facility, for use
32 for heating or air conditioning or both, for any term not exceeding
33 40 years, when the contract is approved by the Board of Public
34 Utilities. For the purposes of this paragraph, "cogeneration" means
35 the simultaneous production in one facility of electric power and
36 other forms of useful energy such as heating or process steam; or

37 b. Plowing and removal of snow and ice, for any term not
38 exceeding in the aggregate, three years; or

39 c. Collection and disposal of garbage and refuse, for any term
40 not exceeding in the aggregate, three years; or

41 d. Data processing service, for any term of not more than seven
42 years; or

43 e. Insurance, including the purchase of insurance coverages,
44 insurance consultant or administrative services, and including
45 participation in a joint self-insurance fund, risk management
46 program or related services provided by a school board insurance
47 group, or participation in an insurance fund established by a county
48 pursuant to N.J.S.40A:10-6, or a joint insurance fund established

- 1 pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of
2 not more than three years; or
- 3 f. Leasing or servicing of automobiles, motor vehicles,
4 electronic communications equipment, machinery and equipment of
5 every nature and kind and textbooks and non-consumable
6 instructional materials, for any term not exceeding in the aggregate,
7 five years; except that contracts for the leasing of fossil fuel school
8 buses may be awarded for any term not exceeding in the aggregate
9 **【ten】 10 years and contracts for the leasing of electric school buses**
10 **and related charging equipment and services may be awarded for**
11 **any term not exceeding the service life of the electric school buses.**
12 Contracts awarded pursuant to this subsection shall be awarded only
13 subject to and in accordance with rules and regulations promulgated
14 by the State Board of Education; or
- 15 g. Supplying of any product or the rendering of any service by
16 a company providing voice, data, transmission or switching
17 services, for a term not exceeding five years; or
- 18 h. (Deleted by amendment, P.L.1999, c.440.)
- 19 i. Driver education instruction conducted by private, licensed
20 driver education schools, for any term not exceeding in the
21 aggregate, three years; or
- 22 j. (Deleted by amendment, P.L.2009, c.4).
- 23 k. Any single project for the construction, reconstruction or
24 rehabilitation of any public building, structure or facility, or any
25 public works project, including the retention of the services of any
26 architect or engineer in connection therewith, for the length of time
27 authorized and necessary for the completion of the actual
28 construction; or
- 29 l. Laundry service and the rental, supply and cleaning of
30 uniforms for any term of not more than three years; or
- 31 m. Food supplies and food services for any term of not more
32 than three years; or
- 33 n. Purchases made under a contract awarded by the Director of
34 the Division of Purchase and Property in the Department of the
35 Treasury for use by counties, municipalities or other contracting
36 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
37 term not to exceed the term of that contract; **【or】**
- 38 o. The provision or performance of goods or services for the
39 purpose of producing class I renewable energy, as that term is
40 defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent
41 to, buildings owned by any local board of education, the entire price
42 of which is to be established as a percentage of the resultant savings
43 in energy costs, for a term not to exceed 15 years; provided,
44 however, that these contracts shall be entered into only subject to
45 and in accordance with guidelines promulgated by the Board of
46 Public Utilities establishing a methodology for computing energy
47 cost savings and energy generation costs; or

1 p. The provision or performance of goods or services for the
2 purpose of providing electric school buses, on-site or off-site
3 electric school bus charging infrastructure, and related maintenance
4 and other related services, or any combination thereof for a
5 specified price for a term up to the service life of the vehicle being
6 contracted.

7 Any contract for services other than professional services, the
8 statutory length of which contract is for three years or less, may
9 include provisions for no more than one two-year, or two one-year,
10 extensions, subject to the following limitations: a. the contract shall
11 be awarded by resolution of the board of education upon a finding
12 by the board of education that the services are being performed in
13 an effective and efficient manner; b. no such contract shall be
14 extended so that it runs for more than a total of five consecutive
15 years; c. any price change included as part of an extension shall be
16 based upon the price of the original contract as cumulatively
17 adjusted pursuant to any previous adjustment or extension and shall
18 not exceed the change in the index rate for the 12 months preceding
19 the most recent quarterly calculation available at the time the
20 contract is renewed; and d. the terms and conditions of the contract
21 remain substantially the same.

22 All multiyear leases and contracts entered into pursuant to this
23 section, including any two-year or one-year extensions, except
24 contracts for insurance coverages, insurance consultant or
25 administrative services, participation or membership in a joint self-
26 insurance fund, risk management programs or related services of a
27 school board insurance group, participation in an insurance fund
28 established by a county pursuant to N.J.S.40A:10-6 or contracts for
29 thermal energy authorized pursuant to subsection a. above, and
30 contracts for the provision or performance of goods or services to
31 promote energy conservation through the production of class I
32 renewable energy, authorized pursuant to subsection o. of this
33 section, shall contain a clause making them subject to the
34 availability and appropriation annually of sufficient funds as may
35 be required to meet the extended obligation, or contain an annual
36 cancellation clause. All contracts shall cease to have effect at the
37 end of the contracted period and shall not be extended by any
38 mechanism or provision, unless in conformance with the "Public
39 School Contracts Law," N.J.S.18A:18A-1 et seq., except that a
40 contract may be extended by mutual agreement of the parties to the
41 contract when a board of education has commenced rebidding prior
42 to the time the contract expires or when the awarding of a contract
43 is pending at the time the contract expires.

44 (cf: P.L.2009, c.4, s.3)

45
46 ²[3.] 2.² N.J.S.18A:20-4.2 is amended to read as follows:

47 18A:20-4.2. The board of education of any school district may,
48 for school purposes:

1 (a) Purchase, take and condemn lands within the district and
2 lands not exceeding 50 acres in extent without the district but
3 situate in a municipality or municipalities adjoining the district, but
4 no more than 25 acres may be so acquired in any one such
5 municipality, without the district, except with the consent, by
6 ordinance, of such municipality;

7 (b) Grade, drain and landscape lands owned or to be acquired by
8 it and improve the same in like manner;

9 (c) Erect, lease for a term not exceeding 50 years, enlarge,
10 improve, repair or furnish buildings;

11 (d) Borrow money therefor, with or without mortgage; in the
12 case of a type II district without a board of school estimate, when
13 authorized so to do at any annual or special school election; and in
14 the case of a type II district having a board of school estimate, when
15 the amount necessary to be provided therefor shall have been fixed,
16 determined and certified by the board of school estimate; and in the
17 case of a type I district, when an ordinance authorizing expenditures
18 for such purpose is finally adopted by the governing body of a
19 municipality comprised within the district; provided, however, that
20 no such election shall be held nor shall any such resolution of a
21 school estimate board or ordinance of a municipal governing body
22 be introduced to authorize any lease of any building for a term
23 exceeding one year, until the proposed terms of such lease have
24 been reviewed and approved by the Commissioner of Education and
25 the Local Finance Board in the Department of Community Affairs;

26 (e) Construct, purchase, lease or otherwise acquire a building
27 with the federal government, the State, a political subdivision
28 thereof or any other individual or entity properly authorized to do
29 business in the State; provided that: (1) the noneducational uses of
30 the building are compatible with the establishment and operation of
31 a school, as determined by the Commissioner of Education; (2) the
32 portion of the building to be used as a school meets regulations of
33 the Department of Education; (3) the board of education has
34 complied with the provisions of law and regulations relating to the
35 selection and approval of sites; and (4) in the case of a lease, that
36 any lease in excess of five years shall be approved by the
37 Commissioner of Education and the Local Finance Board in the
38 Department of Community Affairs;

39 (f) Acquire, with the approval of either the commissioner, or
40 voters or board of school estimate, as applicable, improvements or
41 additions to school buildings through lease purchase agreements not
42 in excess of five years. The agreement shall be recorded as an
43 expenditure of the General Fund of the district. The commissioner
44 shall approve the agreement only upon a demonstration by the
45 district that the lease purchase payments and any operating
46 expenses related to the agreement can be included within the
47 district's tax levy growth limitation and will not result in the need
48 for approval by the voters or board of school estimate, as

1 appropriate, of additional spending proposals to maintain existing
2 instructional programs and extracurricular activities. If the
3 commissioner cannot approve the agreement, the board of education
4 may frame a separate question to authorize the lease purchase
5 agreement and obtain voter or board of school estimate approval to
6 enter into the agreement. A district may, without separate prior
7 approval of the commissioner, also acquire equipment through a
8 lease purchase agreement not in excess of five years or in the case
9 of a lease purchase agreement entered into for the acquisition of
10 fossil fuel school buses not in excess of 10 years and in the case of
11 a lease purchase agreement entered into for the acquisition of
12 electric school buses and related charging equipment and services
13 not in excess of the service life of the electric school buses,
14 provided that the amount of the first installment and each
15 subsequent installment for the lease purchase payments is included
16 in the budget that is advertised and submitted for approval to the
17 voters of the district or the board of school estimate, as appropriate.
18 As used herein, a "lease purchase agreement" refers to any
19 agreement which gives the board of education as lessee the option
20 of purchasing the leased equipment or improvements or additions to
21 existing school buildings during or upon termination of the lease,
22 with credit toward the purchase price of all or part of rental
23 payments which have been made by the board of education in
24 accordance with the lease. As part of such a transaction, the board
25 of education may transfer or lease land or rights in land, including
26 any building thereon, after publicly advertising for proposals for the
27 transfer for nominal or fair market value, to the party selected by
28 the board of education, by negotiation or otherwise, after
29 determining that the proposal is in the best interest of the taxpayers
30 of the district, to construct or to improve and to lease or to own or
31 to have ownership interests in the site and the school building to be
32 leased pursuant to such lease purchase agreement, notwithstanding
33 the provisions of any other law to the contrary. The land and any
34 building thereon which is described in a lease purchase agreement
35 entered into pursuant to this amendatory act, shall be deemed to be
36 and treated as property of the school district, used for school
37 purposes pursuant to R.S.54:4-3.3, and shall not be considered or
38 treated as property leased to another whose property is not exempt,
39 and shall not be assessed as real estate pursuant to section 1 of
40 P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement
41 authorized by this section shall contain a provision making
42 payments thereunder subject to the annual appropriation of funds
43 sufficient to meet the required payments or shall contain an annual
44 cancellation clause and shall require all construction contracts let by
45 public school districts or let by developers or owners of property
46 used for school purposes to be competitively bid, pursuant to
47 N.J.S.18A:18A-1 et seq.;

1 (g) Establish with an individual or entity authorized to do
2 business in the State a tenancy in common, condominium,
3 horizontal property regime or other joint ownership arrangement on
4 a site contributed by the school district; provided the following
5 conditions are met:

6 (1) The individual or entity agrees to construct on the site, or
7 provide for the construction thereon, a building or buildings for use
8 of the board of education separately or jointly with the individual or
9 entity, which shall be subject to the joint ownership arrangement;

10 (2) The provision of the building shall be at no cost or at a
11 reduced cost to the board of education;

12 (3) The school district shall not make any payment for use of the
13 building other than its pro rata share of costs of maintenance and
14 improvements;

15 (4) The noneducational uses of the building are compatible with
16 the establishment and operation of a school, as determined by the
17 Commissioner of Education;

18 (5) The portion of the building to be used as a school, and the
19 site, meet regulations of the Department of Education; and

20 (6) Any such agreement shall be approved by the Commissioner
21 of Education and the Local Finance Board in the Department of
22 Community Affairs;

23 (h) Acquire through sale and lease-back textbooks and non-
24 consumable instructional materials provided that the sale price and
25 principal amount of the lease-back do not exceed the fair market
26 value of the textbooks and instructional materials and that the
27 interest rate applied in the lease-back is consistent with prevailing
28 market rates or is less.

29 (cf: P.L.2010, c.44, s.7)

30
31 ²[4.] 3.² Section 42 of P.L.1999, c.23 (C.48:3-91) is amended to
32 read as follows:

33 42. a. Pursuant to the provisions of sections 42 through 45 of this
34 act, a government aggregator may obtain: electric generation service,
35 electric related service, gas supply service or gas related service, either
36 separately or bundled, for its own facilities or with other government
37 aggregators; and a government aggregator that is a county or
38 municipality may contract for the provision of electric generation
39 service or gas supply service, either separately or bundled, for the
40 business and residential customers within the territorial jurisdiction of
41 the government aggregator. Such a government aggregator may
42 combine the need for its own facilities for electric generation service
43 or gas supply service with that of business and residential customers.

44 b. A government aggregator shall purchase electric generation
45 service and gas supply service only from licensed electric power
46 suppliers and licensed gas suppliers.

47 c. The government aggregator shall enter into the contract for
48 electric generation service, electric related service, gas supply service

1 or gas related service for its own facilities or with other government
2 aggregators under the provisions of the "Local Public Contracts Law,"
3 P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts
4 Law," N.J.S.18A:18A-1 et seq., the "County College Contracts Law,"
5 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), or the "Interlocal Services
6 Act," P.L.1973, c.208 (C.40:8A-1 et seq.), as applicable.

7 d. Nothing in this act shall preclude the State government or any
8 State independent authority or State college from exercising authority
9 to obtain electric generation service, electric related service, gas
10 supply service or gas related service, either separately or bundled, for
11 its own facilities on an aggregated basis.

12 e. Nothing in this section shall preclude a government aggregator
13 from aggregating its own accounts for regulated utility services,
14 including basic generation or gas service.

15 f. Nothing in this act shall preclude any interstate authority or
16 agency from exercising authority to obtain electric generation service
17 or gas supply service, either separately or bundled, for its own
18 facilities in this State, including tenants in this State and other utility
19 customers in this State at such facilities, on an aggregated basis. By
20 exercising such authority, no interstate authority or agency shall be
21 deemed to be a public utility pursuant to R.S. 48:1-1 et seq.; provided,
22 however, that nothing in this act shall be construed to exempt such
23 authority or agency from the payment of the market transition charge
24 or its equivalent, imposed pursuant to section 13 of this act, the
25 transition bond charge or its equivalent, imposed pursuant to section
26 18 of this act and any societal benefits charge or its equivalent, which
27 may be imposed pursuant to section 12 of this act, to the same extent
28 that other customers of an electric public utility pay such charges in
29 conjunction with any transmission and distribution service provided by
30 an electric public utility to the authority or agency.

31 g. Notwithstanding any other provision of this act to the contrary,
32 a private aggregator that is a private institution of higher education
33 may enter into a contract with a licensed electric power supplier other
34 than a municipal system or rural electric cooperative for the provision
35 of electric generation service or electric related service, either
36 separately or bundled, including any private aggregator that is a four-
37 year private institution of higher education which is located within the
38 jurisdiction of a municipal system, or within the franchise area of a
39 rural electric cooperative, as the case may be. The right hereunder of a
40 four-year private institution of higher education to enter into a contract
41 with a licensed electric power supplier other than the municipal system
42 or rural electric cooperative shall be subject to the condition that the
43 municipal system or rural electric cooperative shall have the right of
44 first refusal to offer a competitive, market-based price for electric
45 power. For the purposes of this subsection, "municipal system" means
46 a municipality that provides light, heat or power pursuant to the
47 provisions of R.S.40:62-12 et seq.

1 h. The "New Jersey School Boards Association," established
2 pursuant to N.J.S.18A:6-45, is authorized to serve as a government
3 aggregator to obtain electric generation service, electric related
4 service, gas supply service or gas related service, either separately or
5 bundled, in accordance with the "Public School Contracts Law,"
6 N.J.S.18A:18A-1 et seq., for members of the association who wish to
7 voluntarily participate ¹and for counties, municipalities, and other
8 local contracting units who wish to voluntarily participate¹. For
9 purposes of this subsection, "electric related service" ¹also¹ includes
10 electric school buses and related goods and services ²[, including
11 construction projects directly related to those goods and services either
12 individually or in combination]².

13 i. Notwithstanding any provisions of the "Administrative
14 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
15 the board shall initiate a proceeding and shall adopt, after notice,
16 provision of the opportunity for comment, and public hearing, interim
17 standards governing government energy aggregation programs. Such
18 standards shall be effective as regulations immediately upon filing
19 with the Office of Administrative Law and shall be effective for a
20 period not to exceed 18 months, and may, thereafter, be amended,
21 adopted or readopted by the board in accordance with the provisions of
22 the "Administrative Procedure Act."

23 j. No government aggregator shall implement the provisions of
24 section 42, 43, 44, or 45 of this act, as appropriate, prior to the starting
25 date of retail competition pursuant to section 5 of this act, or the date
26 on which the board adopts interim standards pursuant to subsection i.
27 of this section, whichever is earlier.

28 (cf: P.L.2003, c.248, s.2)

29

30 ²[5.] 4.² This act shall take effect immediately.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1677

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 6, 2024

The Assembly Education committee reports favorably Assembly Bill No. 1677 with committee amendments.

This bill, as amended by the committee, authorizes a board of education to use competitive contracting and enter into extended contracts and lease terms for electric school buses. The amended bill also permits the New Jersey School Boards Association to serve as a government aggregator to obtain certain gas and electric related services, including electric school buses and related goods and services, for members and other local units.

Under current law a school district may utilize competitive contracting in lieu of public bidding for the procurement of certain listed specialized goods and services that exceed the bid threshold. The amended bill authorizes a board of education to utilize competitive contracting for the purchase of electric school buses, on-site charging infrastructure for electric school buses, and on-site or off-site related electric school bus and charging infrastructure operation and maintenance services, or any combination thereof.

Current law permits a school district to enter into a contract for the leasing of school buses for a term not exceeding in the aggregate 10 years. The amended bill provides that a school district may enter into a contract for the leasing of electric school buses and related charging equipment and services for a term not in excess of the service life of the electric school bus. The amended bill also clarifies that the 10-year contract term limit continues to apply to fossil fuel school buses.

Also under existing law, a school district may enter into a lease purchase agreement for the acquisition of a school bus for a term not in excess of 10 years. The amended bill extends the term of a lease purchase agreement in the case of electric school buses and related charging equipment and services to the service life of the electric school bus. The amended bill also clarifies that the 10-year lease purchase agreement term limit continues to apply to fossil fuel school buses.

Finally, the bill amends the “Electric Discount and Energy Competition Act,” P.L.1999, c.23 (C.48:3-49 et al), to provide that the New Jersey School Boards Association may serve as a

government aggregator to obtain electric school buses and related goods and services. The amended bill also permits the New Jersey School Boards Association to serve as a government aggregator to obtain the listed services, including electric school buses and related goods and services, for counties, municipalities, and other local contracting units.

This bill was pre-filed for introduction in the 2024-2025 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The committed amended the bill to:

- permit the New Jersey School Boards Association to act as a government aggregator to obtain certain energy services for counties, municipalities, and other local contracting units who wish to voluntarily participate; and
- update the bill title and synopsis.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1677

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2024

The Assembly Budget Committee reports favorably and with committee amendments Assembly Bill No. 1677 (1R).

This bill, as amended by the committee, authorizes a board of education to enter into extended contracts and lease terms for electric school buses. The amended bill also permits the New Jersey School Boards Association to serve as a government aggregator to obtain certain gas and electric related services, including electric school buses and related goods and services, for members and other local units.

Current law permits a school district to enter into a contract for the leasing of school buses for a term not exceeding in the aggregate 10 years. The amended bill provides that a school district may enter into a contract for the leasing of electric school buses and related charging equipment and services for a term not in excess of the service life of the electric school bus. The amended bill also clarifies that the 10-year contract term limit continues to apply to fossil fuel school buses.

Also under existing law, a school district may enter into a lease purchase agreement for the acquisition of a school bus for a term not in excess of 10 years. The amended bill extends the term of a lease purchase agreement in the case of electric school buses and related charging equipment and services to the service life of the electric school bus. The amended bill also clarifies that the 10-year lease purchase agreement term limit continues to apply to fossil fuel school buses.

Finally, the bill amends the “Electric Discount and Energy Competition Act,” P.L.1999, c.23 (C.48:3-49 et al), to provide that the New Jersey School Boards Association may serve as a government aggregator to obtain electric school buses and related goods and services. The amended bill also permits the New Jersey School Boards Association to serve as a government aggregator to obtain the listed services, including electric school buses and related goods and services, for counties, municipalities, and other local contracting units.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- remove the provision permitting a board of education to utilize competitive contracting in certain circumstances; and
- update the synopsis.

FISCAL IMPACT:

This bill is not certified for as requiring a fiscal note.

Governor Murphy Takes Action on Legislation

07/10/2024

TRENTON – Today, Governor Murphy signed the following bills into law:

S-2792/A-3697 (Cruz-Perez, Turner/Spearman, Park, Simmons) - Appropriates \$500,000 from constitutionally dedicated CBT revenues and “2009 Farmland Preservation Fund” to State Agriculture Development Committee for municipal planning incentive grants for farmland preservation purposes

S-2793/A-3698 (Cruz-Perez, Turner/Reynolds-Jackson, Fantasia, Stanley) - Appropriates \$1.723 million from constitutionally dedicated CBT revenues and “2009 Farmland Preservation Fund” to State Agriculture Development Committee for grants to certain nonprofit organizations for farmland preservation purposes

S-2825/A-3906 (Gopal/Peterpaul, Donlon, Flynn) - Removes time limitation on issuance of additional alcoholic beverage licenses within boundaries of former federal military installations

S-3192/A-4454 (Diegnan, Moriarty/Freiman, Pintor Marin, DiMaio) - “Real Estate Consumer Protection Enhancement Act”

S-3275/A-4448 (Gopal, McKeon/Donlon, Pintor Marin, Wimberly) - Revises various provisions of film and digital media content production tax credit program

S-3371/A-4457 (Pou, Singer/Freiman) - Revises limits for net cash surrender and net cash withdrawal values for certain annuity policies and contracts from \$100,000 to \$250,000

S-3384/A-4426 (Burzichelli, Schepisi/Katz, Atkins, Drulis) - Appropriates funds to DEP for environmental infrastructure projects for FY2025

S-3385/A-4602 (Singleton/Lopez) - Concerns deadline for municipality to report certain non-residential development fee information

S-3474/A-4570 (Greenstein/Carter, Speight, Wimberly) - Appropriates \$10,067,905 to DEP from constitutionally dedicated CBT revenues for grants to certain nonprofit entities to acquire or develop lands for recreation and conservation purposes, and for certain administrative expenses

A-1677/S-3263 (Lampitt, Bagolie, Stanley/Diegnan, Turner) - Authorizes extended terms for lease and purchase contracts for electric school buses; permits New Jersey School Boards Association to serve as government aggregator to obtain energy services for local units

A-3772/S-2334 (McCann Stamato, Sampson, Lopez/Stack, McKnight) - Revises process for property tax lien holder to foreclose right to redeem property tax lien; allows property owner to protect remaining equity

A-4046/S-3303 (Pintor Marin, Spearman/Pou, Mukherji) - Extends certain accommodations for businesses participating in State economic development programs

- A-4425/S-3383 (Ramirez, Spearman, Atkins/Gopal, Mukherji)** - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for environmental infrastructure projects for FY2025
- A-4458/S-3342 (Sumter, Sampson/Greenstein, Sarlo)** - Establishes exemptions and revises implementation timeline for requirement that newly constructed townhouses be installed with automatic fire sprinkler system
- A-4478/S-3367 (Calabrese, Karabinchak, Wimberly/Burzichelli)** - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for transportation infrastructure projects for FY2025; makes appropriation
- A-4572/S-3473 (Donlon, Sumter, Drulis/McKeon, Space)** - Appropriates \$101,696,535 from constitutionally dedicated CBT revenues to DEP for local government open space acquisition and park development projects, and for certain administrative expenses
- A-4581/S-3471 (Haider, Sampson, Tully/Mukherji, O'Scanlon)** - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for Community Hazard Assistance Mitigation Program projects for FY 2025
- A-4587/S-3451 (Stanley/Cryan, Pou)** - Increases hours required for individual to obtain licensure as teacher in cosmetology and hairstyling or as massage and bodywork therapist

[First Reprint]

SENATE, No. 3263

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED MAY 16, 2024

Sponsored by:

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

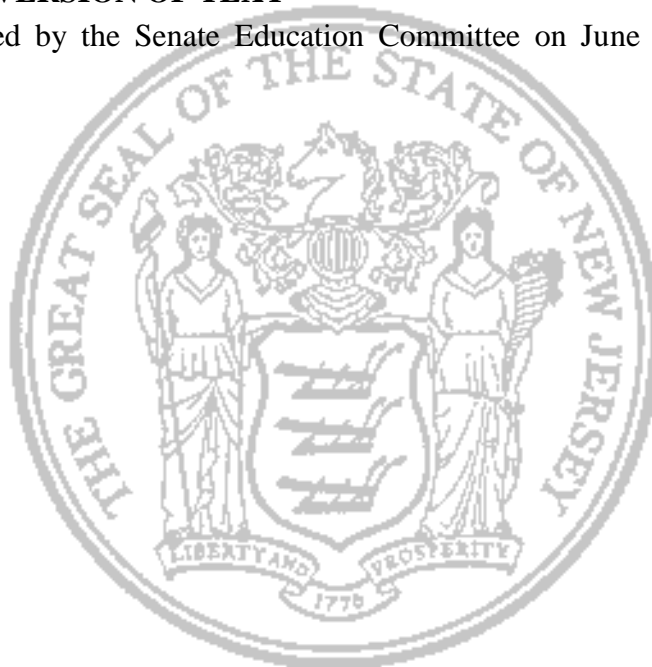
Senators Timberlake and Zwicker

SYNOPSIS

Authorizes extended terms for lease and purchase contracts for electric school buses; permits New Jersey School Boards Association to serve as government aggregator to obtain energy services for local units.

CURRENT VERSION OF TEXT

As reported by the Senate Education Committee on June 20, 2024, with amendments.



(Sponsorship Updated As Of: 6/28/2024)

1 AN ACT concerning ¹**[public school contracting and]**¹ electric
2 school buses ¹and government aggregation of certain energy
3 services,¹ and amending various parts of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 ¹**[**1. Section 45 of P.L.1999, c.440 (C.18A:18A-4.1) is amended
9 to read as follows:

10 45. Notwithstanding the provisions of any law, rule or regulation
11 to the contrary, competitive contracting may be used by boards of
12 education in lieu of public bidding for procurement of specialized
13 goods and services the price of which exceeds the bid threshold, for
14 the following purposes:

15 a. The purchase or licensing of proprietary computer software
16 designed for board of education purposes, which may include
17 hardware intended for use with the proprietary software. This
18 subsection shall not be utilized for the purpose of acquiring general
19 purpose computer hardware or software;

20 b. The hiring of a for-profit entity or a not-for-profit entity
21 incorporated under Title 15A of the New Jersey Statutes for the
22 purpose of:

23 (1) the operation, management or administration of recreation or
24 social service facilities or programs; or

25 (2) the operation, management or administration of data
26 processing services;

27 c. Services performed by an organization engaged in providing
28 energy conservation education and training services to train
29 employees of a board of education to reduce consumption of
30 energy;

31 d. Telecommunications transmission or switching services that
32 are not part of a tariff or schedule of charges filed with the Board of
33 Public Utilities;

34 e. The purchase of specialized machinery or equipment of a
35 technical nature, or servicing thereof, which will not reasonably
36 permit the drawing of specifications;

37 f. Food services provided by food service management
38 companies when not part of programs administered by the New
39 Jersey Department of Agriculture, Bureau of Child Nutrition
40 Programs;

41 g. Driver education courses provided by licensed driver
42 education schools;

43 h. At the option of the board of education, any good or service
44 that is exempt from bidding pursuant to N.J.S.18A:18A-5;

45 i. Laboratory testing services;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SED committee amendments adopted June 20, 2024.

- 1 j. Concessions;
- 2 k. The operation, management or administration of other
- 3 services, with the approval of the Division of Local Government
- 4 Services in the Department of Community Affairs;

5 l. The purchase of electric school buses, on-site charging
6 infrastructure for electric school buses, and on-site or off-site
7 related electric school bus and charging infrastructure operation and
8 maintenance services, or any combination thereof.

9 Any purpose included herein shall not be considered by a board
10 of education as an extraordinary unspecifiable service pursuant to
11 paragraph (2) of subsection a. of N.J.S.18A:18A-5.

12 (cf: P.L.2009, c.4, s.2)]¹

13

14 ¹[2.] 1.¹ N.J.S.18A:18A-42 is amended to read as follows:

15 18A:18A-42. All contracts for the provision or performance of
16 goods or services shall be awarded for a period not to exceed 24
17 consecutive months, except that contracts for professional services
18 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall
19 be awarded for a period not to exceed 12 consecutive months. Any
20 board of education may award a contract for longer periods of time
21 as follows:

22 a. Supplying of:

23 (1) Fuel for heating purposes, for any term not exceeding in the
24 aggregate, three years;

25 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles
26 or equipment, for any term not exceeding in the aggregate, three
27 years;

28 (3) Thermal energy produced by a cogeneration facility, for use
29 for heating or air conditioning or both, for any term not exceeding
30 40 years, when the contract is approved by the Board of Public
31 Utilities. For the purposes of this paragraph, "cogeneration" means
32 the simultaneous production in one facility of electric power and
33 other forms of useful energy such as heating or process steam; or

34 b. Plowing and removal of snow and ice, for any term not
35 exceeding in the aggregate, three years; or

36 c. Collection and disposal of garbage and refuse, for any term
37 not exceeding in the aggregate, three years; or

38 d. Data processing service, for any term of not more than seven
39 years; or

40 e. Insurance, including the purchase of insurance coverages,
41 insurance consultant or administrative services, and including
42 participation in a joint self-insurance fund, risk management
43 program or related services provided by a school board insurance
44 group, or participation in an insurance fund established by a county
45 pursuant to N.J.S.40A:10-6, or a joint insurance fund established
46 pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of
47 not more than three years; or

- 1 f. Leasing or servicing of automobiles, motor vehicles,
2 electronic communications equipment, machinery and equipment of
3 every nature and kind and textbooks and non-consumable
4 instructional materials, for any term not exceeding in the aggregate,
5 five years; except that contracts for the leasing of fossil fuel school
6 buses may be awarded for any term not exceeding in the aggregate
7 **【ten】** 10 years and contracts for the leasing of electric school buses
8 and related charging equipment and services may be awarded for
9 any term not exceeding the service life of the electric school buses.
10 Contracts awarded pursuant to this subsection shall be awarded only
11 subject to and in accordance with rules and regulations promulgated
12 by the State Board of Education; or
- 13 g. Supplying of any product or the rendering of any service by
14 a company providing voice, data, transmission or switching
15 services, for a term not exceeding five years; or
- 16 h. (Deleted by amendment, P.L.1999, c.440.)
- 17 i. Driver education instruction conducted by private, licensed
18 driver education schools, for any term not exceeding in the
19 aggregate, three years; or
- 20 j. (Deleted by amendment, P.L.2009, c.4).
- 21 k. Any single project for the construction, reconstruction or
22 rehabilitation of any public building, structure or facility, or any
23 public works project, including the retention of the services of any
24 architect or engineer in connection therewith, for the length of time
25 authorized and necessary for the completion of the actual
26 construction; or
- 27 l. Laundry service and the rental, supply and cleaning of
28 uniforms for any term of not more than three years; or
- 29 m. Food supplies and food services for any term of not more
30 than three years; or
- 31 n. Purchases made under a contract awarded by the Director of
32 the Division of Purchase and Property in the Department of the
33 Treasury for use by counties, municipalities or other contracting
34 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
35 term not to exceed the term of that contract; **【or】**
- 36 o. The provision or performance of goods or services for the
37 purpose of producing class I renewable energy, as that term is
38 defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent
39 to, buildings owned by any local board of education, the entire price
40 of which is to be established as a percentage of the resultant savings
41 in energy costs, for a term not to exceed 15 years; provided,
42 however, that these contracts shall be entered into only subject to
43 and in accordance with guidelines promulgated by the Board of
44 Public Utilities establishing a methodology for computing energy
45 cost savings and energy generation costs; or
- 46 p. The provision or performance of goods or services for the
47 purpose of providing electric school buses, on-site or off-site
48 electric school bus charging infrastructure, and related maintenance

1 and other related services, or any combination thereof for a
2 specified price for a term up to the service life of the vehicle being
3 contracted.

4 Any contract for services other than professional services, the
5 statutory length of which contract is for three years or less, may
6 include provisions for no more than one two-year, or two one-year,
7 extensions, subject to the following limitations: a. the contract shall
8 be awarded by resolution of the board of education upon a finding
9 by the board of education that the services are being performed in
10 an effective and efficient manner; b. no such contract shall be
11 extended so that it runs for more than a total of five consecutive
12 years; c. any price change included as part of an extension shall be
13 based upon the price of the original contract as cumulatively
14 adjusted pursuant to any previous adjustment or extension and shall
15 not exceed the change in the index rate for the 12 months preceding
16 the most recent quarterly calculation available at the time the
17 contract is renewed; and d. the terms and conditions of the contract
18 remain substantially the same.

19 All multiyear leases and contracts entered into pursuant to this
20 section, including any two-year or one-year extensions, except
21 contracts for insurance coverages, insurance consultant or
22 administrative services, participation or membership in a joint self-
23 insurance fund, risk management programs or related services of a
24 school board insurance group, participation in an insurance fund
25 established by a county pursuant to N.J.S.40A:10-6 or contracts for
26 thermal energy authorized pursuant to subsection a. above, and
27 contracts for the provision or performance of goods or services to
28 promote energy conservation through the production of class I
29 renewable energy, authorized pursuant to subsection o. of this
30 section, shall contain a clause making them subject to the
31 availability and appropriation annually of sufficient funds as may
32 be required to meet the extended obligation, or contain an annual
33 cancellation clause. All contracts shall cease to have effect at the
34 end of the contracted period and shall not be extended by any
35 mechanism or provision, unless in conformance with the "Public
36 School Contracts Law," N.J.S.18A:18A-1 et seq., except that a
37 contract may be extended by mutual agreement of the parties to the
38 contract when a board of education has commenced rebidding prior
39 to the time the contract expires or when the awarding of a contract
40 is pending at the time the contract expires.

41 (cf: P.L.2009, c.4, s.3)

42

43 ¹**[3.] 2.**¹ N.J.S.18A:20-4.2 is amended to read as follows:

44 18A:20-4.2. The board of education of any school district may,
45 for school purposes:

46 (a) Purchase, take and condemn lands within the district and
47 lands not exceeding 50 acres in extent without the district but
48 situate in a municipality or municipalities adjoining the district, but

1 no more than 25 acres may be so acquired in any one such
2 municipality, without the district, except with the consent, by
3 ordinance, of such municipality;

4 (b) Grade, drain and landscape lands owned or to be acquired by
5 it and improve the same in like manner;

6 (c) Erect, lease for a term not exceeding 50 years, enlarge,
7 improve, repair or furnish buildings;

8 (d) Borrow money therefor, with or without mortgage; in the
9 case of a type II district without a board of school estimate, when
10 authorized so to do at any annual or special school election; and in
11 the case of a type II district having a board of school estimate, when
12 the amount necessary to be provided therefor shall have been fixed,
13 determined and certified by the board of school estimate; and in the
14 case of a type I district, when an ordinance authorizing expenditures
15 for such purpose is finally adopted by the governing body of a
16 municipality comprised within the district; provided, however, that
17 no such election shall be held nor shall any such resolution of a
18 school estimate board or ordinance of a municipal governing body
19 be introduced to authorize any lease of any building for a term
20 exceeding one year, until the proposed terms of such lease have
21 been reviewed and approved by the Commissioner of Education and
22 the Local Finance Board in the Department of Community Affairs;

23 (e) Construct, purchase, lease or otherwise acquire a building
24 with the federal government, the State, a political subdivision
25 thereof or any other individual or entity properly authorized to do
26 business in the State; provided that: (1) the noneducational uses of
27 the building are compatible with the establishment and operation of
28 a school, as determined by the Commissioner of Education; (2) the
29 portion of the building to be used as a school meets regulations of
30 the Department of Education; (3) the board of education has
31 complied with the provisions of law and regulations relating to the
32 selection and approval of sites; and (4) in the case of a lease, that
33 any lease in excess of five years shall be approved by the
34 Commissioner of Education and the Local Finance Board in the
35 Department of Community Affairs;

36 (f) Acquire, with the approval of either the commissioner, or
37 voters or board of school estimate, as applicable, improvements or
38 additions to school buildings through lease purchase agreements not
39 in excess of five years. The agreement shall be recorded as an
40 expenditure of the General Fund of the district. The commissioner
41 shall approve the agreement only upon a demonstration by the
42 district that the lease purchase payments and any operating
43 expenses related to the agreement can be included within the
44 district's tax levy growth limitation and will not result in the need
45 for approval by the voters or board of school estimate, as
46 appropriate, of additional spending proposals to maintain existing
47 instructional programs and extracurricular activities. If the
48 commissioner cannot approve the agreement, the board of education

1 may frame a separate question to authorize the lease purchase
2 agreement and obtain voter or board of school estimate approval to
3 enter into the agreement. A district may, without separate prior
4 approval of the commissioner, also acquire equipment through a
5 lease purchase agreement not in excess of five years or in the case
6 of a lease purchase agreement entered into for the acquisition of
7 fossil fuel school buses not in excess of 10 years and in the case of
8 a lease purchase agreement entered into for the acquisition of
9 electric school buses and related charging equipment and services
10 not in excess of the service life of the electric school buses,
11 provided that the amount of the first installment and each
12 subsequent installment for the lease purchase payments is included
13 in the budget that is advertised and submitted for approval to the
14 voters of the district or the board of school estimate, as appropriate.
15 As used herein, a "lease purchase agreement" refers to any
16 agreement which gives the board of education as lessee the option
17 of purchasing the leased equipment or improvements or additions to
18 existing school buildings during or upon termination of the lease,
19 with credit toward the purchase price of all or part of rental
20 payments which have been made by the board of education in
21 accordance with the lease. As part of such a transaction, the board
22 of education may transfer or lease land or rights in land, including
23 any building thereon, after publicly advertising for proposals for the
24 transfer for nominal or fair market value, to the party selected by
25 the board of education, by negotiation or otherwise, after
26 determining that the proposal is in the best interest of the taxpayers
27 of the district, to construct or to improve and to lease or to own or
28 to have ownership interests in the site and the school building to be
29 leased pursuant to such lease purchase agreement, notwithstanding
30 the provisions of any other law to the contrary. The land and any
31 building thereon which is described in a lease purchase agreement
32 entered into pursuant to this amendatory act, shall be deemed to be
33 and treated as property of the school district, used for school
34 purposes pursuant to R.S.54:4-3.3, and shall not be considered or
35 treated as property leased to another whose property is not exempt,
36 and shall not be assessed as real estate pursuant to section 1 of
37 P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement
38 authorized by this section shall contain a provision making
39 payments thereunder subject to the annual appropriation of funds
40 sufficient to meet the required payments or shall contain an annual
41 cancellation clause and shall require all construction contracts let by
42 public school districts or let by developers or owners of property
43 used for school purposes to be competitively bid, pursuant to
44 N.J.S.18A:18A-1 et seq.;

45 (g) Establish with an individual or entity authorized to do
46 business in the State a tenancy in common, condominium,
47 horizontal property regime or other joint ownership arrangement on

1 a site contributed by the school district; provided the following
2 conditions are met:

3 (1) The individual or entity agrees to construct on the site, or
4 provide for the construction thereon, a building or buildings for use
5 of the board of education separately or jointly with the individual or
6 entity, which shall be subject to the joint ownership arrangement;

7 (2) The provision of the building shall be at no cost or at a
8 reduced cost to the board of education;

9 (3) The school district shall not make any payment for use of the
10 building other than its pro rata share of costs of maintenance and
11 improvements;

12 (4) The noneducational uses of the building are compatible with
13 the establishment and operation of a school, as determined by the
14 Commissioner of Education;

15 (5) The portion of the building to be used as a school, and the
16 site, meet regulations of the Department of Education; and

17 (6) Any such agreement shall be approved by the Commissioner
18 of Education and the Local Finance Board in the Department of
19 Community Affairs;

20 (h) Acquire through sale and lease-back textbooks and non-
21 consumable instructional materials provided that the sale price and
22 principal amount of the lease-back do not exceed the fair market
23 value of the textbooks and instructional materials and that the
24 interest rate applied in the lease-back is consistent with prevailing
25 market rates or is less.

26 (cf: P.L.2010, c.44, s.7)

27

28 ¹~~4.~~ 3.¹ Section 42 of P.L.1999, c.23 (C.48:3-91) is amended to
29 read as follows:

30 42. a. Pursuant to the provisions of sections 42 through 45 of this
31 act, a government aggregator may obtain: electric generation service,
32 electric related service, gas supply service or gas related service, either
33 separately or bundled, for its own facilities or with other government
34 aggregators; and a government aggregator that is a county or
35 municipality may contract for the provision of electric generation
36 service or gas supply service, either separately or bundled, for the
37 business and residential customers within the territorial jurisdiction of
38 the government aggregator. Such a government aggregator may
39 combine the need for its own facilities for electric generation service
40 or gas supply service with that of business and residential customers.

41 b. A government aggregator shall purchase electric generation
42 service and gas supply service only from licensed electric power
43 suppliers and licensed gas suppliers.

44 c. The government aggregator shall enter into the contract for
45 electric generation service, electric related service, gas supply service
46 or gas related service for its own facilities or with other government
47 aggregators under the provisions of the "Local Public Contracts Law,"
48 P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts

1 Law," N.J.S.18A:18A-1 et seq., the "County College Contracts Law,"
2 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), or the "Interlocal Services
3 Act," P.L.1973, c.208 (C.40:8A-1 et seq.), as applicable.

4 d. Nothing in this act shall preclude the State government or any
5 State independent authority or State college from exercising authority
6 to obtain electric generation service, electric related service, gas
7 supply service or gas related service, either separately or bundled, for
8 its own facilities on an aggregated basis.

9 e. Nothing in this section shall preclude a government aggregator
10 from aggregating its own accounts for regulated utility services,
11 including basic generation or gas service.

12 f. Nothing in this act shall preclude any interstate authority or
13 agency from exercising authority to obtain electric generation service
14 or gas supply service, either separately or bundled, for its own
15 facilities in this State, including tenants in this State and other utility
16 customers in this State at such facilities, on an aggregated basis. By
17 exercising such authority, no interstate authority or agency shall be
18 deemed to be a public utility pursuant to R.S. 48:1-1 et seq.; provided,
19 however, that nothing in this act shall be construed to exempt such
20 authority or agency from the payment of the market transition charge
21 or its equivalent, imposed pursuant to section 13 of this act, the
22 transition bond charge or its equivalent, imposed pursuant to section
23 18 of this act and any societal benefits charge or its equivalent, which
24 may be imposed pursuant to section 12 of this act, to the same extent
25 that other customers of an electric public utility pay such charges in
26 conjunction with any transmission and distribution service provided by
27 an electric public utility to the authority or agency.

28 g. Notwithstanding any other provision of this act to the contrary,
29 a private aggregator that is a private institution of higher education
30 may enter into a contract with a licensed electric power supplier other
31 than a municipal system or rural electric cooperative for the provision
32 of electric generation service or electric related service, either
33 separately or bundled, including any private aggregator that is a four-
34 year private institution of higher education which is located within the
35 jurisdiction of a municipal system, or within the franchise area of a
36 rural electric cooperative, as the case may be. The right hereunder of a
37 four-year private institution of higher education to enter into a contract
38 with a licensed electric power supplier other than the municipal system
39 or rural electric cooperative shall be subject to the condition that the
40 municipal system or rural electric cooperative shall have the right of
41 first refusal to offer a competitive, market-based price for electric
42 power. For the purposes of this subsection, "municipal system" means
43 a municipality that provides light, heat or power pursuant to the
44 provisions of R.S.40:62-12 et seq.

45 h. The "New Jersey School Boards Association," established
46 pursuant to N.J.S.18A:6-45, is authorized to serve as a government
47 aggregator to obtain electric generation service, electric related
48 service, gas supply service or gas related service, either separately or

1 bundled, in accordance with the "Public School Contracts Law,"
2 N.J.S.18A:18A-1 et seq., for members of the association who wish to
3 voluntarily participate ¹and for counties, municipalities, and other
4 local contracting units who wish to voluntarily participate¹. For
5 purposes of this subsection, "electric related service" ¹also¹ includes
6 electric school buses and related goods and services ¹[, including
7 construction projects directly related to those goods and services either
8 individually or in combination]¹.

9 i. Notwithstanding any provisions of the "Administrative
10 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
11 the board shall initiate a proceeding and shall adopt, after notice,
12 provision of the opportunity for comment, and public hearing, interim
13 standards governing government energy aggregation programs. Such
14 standards shall be effective as regulations immediately upon filing
15 with the Office of Administrative Law and shall be effective for a
16 period not to exceed 18 months, and may, thereafter, be amended,
17 adopted or readopted by the board in accordance with the provisions of
18 the "Administrative Procedure Act."

19 j. No government aggregator shall implement the provisions of
20 section 42, 43, 44, or 45 of this act, as appropriate, prior to the starting
21 date of retail competition pursuant to section 5 of this act, or the date
22 on which the board adopts interim standards pursuant to subsection i.
23 of this section, whichever is earlier.

24 (cf: P.L.2003, c.248, s.2)

25

26 ¹**[5.] 4.**¹ This act shall take effect immediately.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 3263

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 20, 2024

The Senate Education Committee favorably reports Senate Bill No. 3263 with committee amendments.

This bill, as amended by the committee, authorizes a board of education to enter into extended contracts and lease terms for electric school buses. The amended bill also permits the New Jersey School Boards Association to serve as a government aggregator to obtain certain gas and electric related services, including electric school buses and related goods and services, for members and other local units.

Current law permits a school district to enter into a contract for the leasing of school buses for a term not exceeding in the aggregate 10 years. The amended bill provides that a school district may enter into a contract for the leasing of electric school buses and related charging equipment and services for a term not in excess of the service life of the electric school bus. The amended bill also clarifies that the 10-year contract term limit continues to apply to fossil fuel school buses.

Also under existing law, a school district may enter into a lease purchase agreement for the acquisition of a school bus for a term not in excess of 10 years. The amended bill extends the term of a lease purchase agreement in the case of electric school buses and related charging equipment and services to the service life of the electric school bus. The amended bill also clarifies that the 10-year lease purchase agreement term limit continues to apply to fossil fuel school buses.

Finally, the bill amends the “Electric Discount and Energy Competition Act,” P.L.1999, c.23 (C.48:3-49 et al), to provide that the New Jersey School Boards Association may serve as a government aggregator to obtain electric school buses and related goods and services. The amended bill also permits the New Jersey School Boards Association to serve as a government aggregator to obtain the listed services, including electric school buses and related goods and services, for counties, municipalities, and other local contracting units.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- permit the New Jersey School Boards Association to act as a government aggregator to obtain certain energy services for counties, municipalities, and other local contracting units who wish to voluntarily participate;
- remove the provision permitting a board of education to utilize competitive contracting in certain circumstances; and
- update the bill title and synopsis.