R.S. 52:32-2

December 5, 1966

LEGISLATIVE HISTORY OF R.S. 52:32-2
(Public contracts - separate plans - state buildings)

COPY NO. 1
for initial
[illegible]

L. 1915, Chapter 95, § 1 - A113
Introduced January 18 by Mr. Scudder.
Bill had statement (copy of bill with statement enclosed).
Not amended during passage.

L. 1931, Chapter 18, § 1 - S141
Introduced February 2 by Mr. Yates.
No statement.
Amended in Senate (copy of original bill enclosed).
March 23 - Approved by Governor.

L. 1931, Chapter 364 - A119
Introduced January 26 by Mr. Siracusa.
Bill had statement (copy of original bill with statement enclosed).
April 20-Committee Substitute adopted by Assembly (copy enclosed).
April 22 - Amended (copy enclosed).
April 28 - Approved by Governor.

For background you may wish to examine the following:

J351.71 T23

New Jersey Taxpayers Association.
New Jersey's state procurement system. Trenton, 1950.

J351.71 C44

New Jersey State Chamber of Commerce.
The state purchasing department: an administrative survey. Newark, 1941.

RS/PC

ASSEMBLY, No. 113.

STATE OF NEW JERSEY.

INTRODUCED JANUARY 18, 1915.

By Mr. SCUDDER.

Referred to Committee on Miscellaneous Business.

AN ACT to regulate the preparation of plans and specifications and the awarding of contracts for the erection, construction and alteration of public buildings in this State.

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

1. Hereafter in the preparation of plans and specifications for the erection, construction, alteration or repair of any public buildings in this State, whether the same is to be erected, altered or repaired by the State or any political subdivision thereof, when the entire cost of such work will exceed one thousand dollars in amount, it shall be the duty of the architect, engineer or other person preparing such plans and specifications, to prepare separate plans and specifications for the plumbing and gas fitting, and all work kindred thereto, and of the steam and hot-water heating and ventilating apparatus, steam power plants and work kindred thereto, and electrical work; and it shall be the further duty of the board or body, person or persons authorized by law to award contracts for the erection, construction, alteration or repair of any such public building, to advertise for, in the manner provided by law, and to receive separate bids for each of said branches of work, and to award contracts for the same to the lowest responsible bidder for each of such branches respectively.

2. All acts or parts of acts inconsistent herewith are hereby repealed, and this act shall take effect immediately.

STATEMENT.

The object of this bill is to make it mandatory, in preparing plans and specifications for construction, alteration or repair of public buildings, where same is to cost more than one thousand dollars, to prepare separate plans and specifications for plumbing and gas fitting and kindred work; steam and hot-water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, and to advertise for separate bids on such work. This conforms to existing laws in a number of other States, including New York and Pennsylvania.

SENATE, No. 141

(*P. L.* 1915, *Chap.* 95)

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 2, 1931

By Mr. YATES

Referred to Committee on Revision and Amendment of the Laws

AN ACT to amend an act entitled "An act to regulate the preparation of plans and specifications and the awarding of contracts for the erection, construction and alteration of public buildings in this State," approved March twenty-ninth, one thousand nine hundred and fifteen.

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

1. Section one of the act of which this act is amendatory be and the same is hereby amended so that the same shall read as follows:

1. Hereafter in the preparation of plans and specifications for the erection, construction, alteration or repair of any public buildings in this State, whether the same is to be erected, altered or repaired by the State or any political subdivision thereof, when the entire cost of such work will exceed one thousand dollars in amount, it shall be the duty of the architect, engineer or other person preparing such plans and specifications, to prepare separate plans and specifications for the plumbing and gas fitting, and all work kindred thereto, and of the steam and hot-water heating and ventilating apparatus, steam power plants and all work kindred thereto, and electrical work, structural steel and ornamental iron work; and it shall be the further duty of the board or body, person or persons authorized by law to award contracts for the erection, construction, alteration or repair of any such public building, to advertise for, in the manner provided by law, and to receive

separate bids for each of said branches of work, and to award contracts for the same to the lowest responsible bidder for each of such branches respectively.

2. This act shall take effect immediately.

[SECOND OFFICIAL COPY REPRINT.

SENATE, No. 141

(P. L. 1915, Chap. 95)

STATE OF NEW JER

INTRODUCED FEBRUARY 2, 1931

By Mr. YATES

Referred to Committee on Revision and Amendment of the Laws

AN ACT to amend an act entitled "An act to regulate the preparation of plans an specifications and the awarding of contracts for the erection, construction and alteration of public buildings in this State," approved March twenty-ninth, one thousand nine hundred and fifteen.

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

1. Section one of the act of which this act is amendatory be and the same is hereby amended so that the same shall read as follows:

1. Hereafter in the preparation of plans and specifications for the erection, construction, alteration or repair of any public buildings in this State, whether the same is to be erected, altered or repaired by the State or any political subdivision thereof, when the entire cost of such work will exceed fifty thousand dollars in amount, it shall be the duty of the architect, engineer or other person preparing such plans and specifications, to prepare separate plans and specifications for the plumbing and gas fitting, and all work kindred thereto, and of the steam and hot-water heating and ventilating apparatus, steam power plants and work kindred thereto, and electrical work, structural steel and ornamental iron work; and it shall be the further duty of the board or body, person or persons authorized by law to award contracts for the erection, construction, alteration or repair of any such public building, to advertise for, in the manner provided by law, and to receive

15 separate bids for each of said branches of work, and to award contracts for the
16 same to the lowest responsible bidder for each of such branches respectively.

ASSEMBLY, No. 119

(*Chap. 75, Laws 1918, p. 203*)

STATE OF NEW JERSEY

INTRODUCED JANUARY 26, 1931

By Mr. SIRACUSA

Referred to Committee on Judiciary

AN ACT to amend the title and also the body of an act entitled "An act to protect persons performing labor or furnishing materials for the construction, alteration or repair of public works," approved February sixteenth, one thousand nine hundred and eighteen.

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

1. The title of the act mentioned in the title of this act is hereby amended to read as follows:

An Act to protect persons performing labor or employed by contractors upon public works, and to secure claims of persons who furnish [furnishing] materials, supplies, teams, implements or machinery used or consumed by such contractors in and about the performance of such [for the construction, alteration or repair of public] works.

2. Section one of the act mentioned in the title hereof is hereby amended so as to read as follows:

1. When public buildings or other public works or improvements are about to be constructed, erected, altered or repaired under contract, at the expense of the State or any county, city, town, township, village, borough, municipality governed by a board of commissioners, or improvement commission, or school district thereof, it shall be the duty of the board, officer or agent, contracting on behalf of the State or any county, city, town, township, village, borough, municipality governed by a board of commissioners, or improvement commission, or school district, to require the usual

bond, as provided for in the statute, with good and sufficient sureties, with an additional obligation for the payment by the contractor, and by all subcontractors, for all labor performed or materials [furnished], provisions, provender or other supplies, teams, fuel, oils, implements or machinery used or consumed in, upon, for or about the construction, erection, alteration, or repair of such building, works or improvements.

3. Section two of the act mentioned in the title hereof is hereby amended so as to read as follows:

2. Such bond shall be executed by such contractor with such sureties as shall be approved by the board, officer or agent acting on behalf of the State or any county, city, town, township, village, borough, municipality governed by a board of commissioners, or improvement commission, or school district aforesaid, in an amount equal to at least one hundred per centum (100%) of the contract price, and conditioned for the payment by the contractor, and by all subcontractors, or his or its subcontractor, of all indebtedness which may accrue to any person, firm or corporation, in an amount not exceeding the sum specified in the bond, on account of any labor performed or materials [furnished], provisions, provender or other supplies, or teams, fuel, oils, implements or machinery used or consumed in, upon for or about [in] the construction, erection, alteration or repair to such building, works or improvements. Such bond shall be deposited with, and held by, such board, officer or agent for the use of any party interested therein.

4. Section three of the act mentioned in the title hereof is hereby amended so as to read as follows:

3. Any person, firm or corporation to whom any money shall be due on account of having performed any labor, or furnished any [material] materials, provisions, provender or other supplies, teams, fuel, oils, implements or machinery in, upon, for or about the construction, erection, alteration or repair of any such building, work or improvement, within eighty (80) days after the acceptance thereof by the duly authorized board or officer, shall furnish the sureties on said bond a statement of the amount due to any such person, firm, or corporation. No suit shall be brought against said sureties on said bond until the expiration of sixty (60) days after the furnishing

of said statement. If said indebtedness shall not be paid in full at the expiration of said sixty days, said person, firm or corporation may bring an action in his or its own name upon such bond, said action to be commenced within one year from the date of the acceptance of said building, work or improvement. And upon the trial of any such action, the court shall award to the prevailing party a reasonable attorney's fee, to be taxed as costs, and to be included in the judgment therein rendered.

5. Section four of the act mentioned in the title hereof is hereby amended so as to read as follows:

4. The bond hereinbefore provided for shall be substantially the following form, and recovery of any claimant thereunder shall be subject to the conditions and provisions of this act to the same extent as if such conditions and provisions were fully incorporated in said bond form.

Know all men by these presents, that we, the undersigned..... ..... as principal and.....as sureties, are hereby held and firmly bound unto.....in the penal sum of ..... dollars, for the payment of which well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

Signed this.....day of....., 19.....

The condition of the above obligation is such that whereas, the above named principal did on the.....day of....., 19..... enter into a contract with....., which said contract is made a part of this the bond the same as though set forth herein;

Now, if the said.....shall well and faithfully do and perform the things agreed by.....to be done and performed according to the terms of said contract, and shall pay all lawful claims of subcontractors, materialmen, [and] laborers, persons, firms or corporations for labor performed [and] or materials, provisions, provender or other supplies or teams, fuel, oils, implements or machinery furnished, used or consumed in the carrying forward, performing or completing of said contract, we agreeing and assenting that this under-

taking shall be for the benefit of any subcontractor, materialman, [or] laborer, person, firm or corporation having a just claim, as well as for the obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

The said surety hereby stipulates and agrees that no modifications, omissions or additions in or to the terms of the said contract or in or to the plans or specifications therefor shall in any wise affect the obligation of said surety on its bond.

6. [This act shall take effect immediately.] All acts or parts of acts inconsistent herewith be and the same are hereby repealed.

7. This act shall take effect immediately.

STATEMENT

The purpose of this act is to broaden the scope of protection of bonds to those who supply labor, materials, provisions, provender or other supplies including teams, fuel, oils, implements or machinery used or consumed in the furtherance or completion of contracts concerning public works in line with similar statutes in other States so that all suppliers should be so protected.

COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 119

STATE OF NEW JERSEY

ADOPTED APRIL 20, 1931

AN ACT to amend an act entitled "An act to regulate the preparation of plans and specifications and the awarding of contracts for the erection, construction and alteration of public buildings in this State," approved March twenty-ninth, one thousand nine hundred and fifteen.

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

1. Section one of the act of which this act is amendatory, be and the same is hereby amended to read as follows:

1. Hereafter in the preparation of plans and specifications for the erection, construction, alteration or repair of any public buildings in this State, whether the same is to be erected, altered or repaired by the State, or any political subdivision thereof, when the entire cost of such work will exceed [fifty] one thousand dollars in amount, it shall be the duty of the architect, engineer or other person preparing such plans and specifications, to prepare separate plans and specifications for the plumbing and gas fitting, and all work kindred thereto, and of the steam and hot water heating and ventilating apparatus, steam power plants and all work kindred thereto, and electrical work, structural steel and ornamental iron work; and it shall be the further duty of the board or body, person or persons authorized by law to award contracts for the erection, construction, alteration or repair of any such public building, to advertise for, in the manner provided by law, and to receive separate bids for each of said branches of work, and to award contracts for the same to the lowest responsible bidder for each of such branches respectively.

2. This act shall take effect immediately.

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SENATE AMENDMENT TO COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 119

STATE OF NEW JERSEY

Amend Section 2, line 1, by striking out the word "immediately" and inserting in lieu thereof the words "July first, one thousand nine hundred and thirty-one".

40:9-3

January 23, 1969

LEGISLATIVE HISTORY OF R.S. 40:9-3
(Separate plans for various types of work; bids; contracts. Construction)

COPY NO. 1

L. 1915, Chapter 95.
Introduced as Assembly 113 by Mr. Scudder on January 18, 1915. This was passed as originally introduced and had the following statement:

> The object of this is to make mandatory, in preparing plans and specifications for construction alteration or repair of public buildings, where same is to cost more than one thousand dollars, to prepare separate plans and specifications for plumbing and gas fitting and kindred work; steam and hot-water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, and to advertise for separate bids on such work. This conforms to existing laws in a number of other states, including New York and Pennsylvania.

L. 1931, Chapter 18
Introduced as Senate 141 by Mr. Yates, on February 2, 1931. The original bill intended to change the 1915 bill by adding the word "all" in the first sentence after "steam power plants and" and adding the phrase "structural steel and ornamental iron work" after the words "electrical work". Later Mr. Yates offered an amendment which struck out the word "all" which he added in the original bill and struck out the phrase "This act shall take effect immediately".
Unanimous consent was given both these amendments. Then Mr. Yates offered another amendment changing "$1,000" to "$50,000". This bill became law March 23, 1931.
However, this provision was changed almost immediately.

L. 1931, Chapter 364
Introduced as Assembly 119 by Mr. Siracusa, January 26, 1931. The original A-119 was a completely different bill from the one which was later passed and amended a different act. It had a statement of purpose but since its subject matter is not related to the bills which we are dealing with here, it is of no help. The Committee Substitute for A-119, which was adopted April 20, 1931, makes two changes in the previous bill. It changes the amount of "$50,000" back to "$1,000", and adds the word "all" in "steam power plants and <u>all</u> work kindred thereto...".

L. 1968, Chapter 121 - A337
Introduced February 8 by Costa [and 8 others].
No statement (copy of all forms of bill and amendments enclosed).
Amended in Assembly.
Amended in Senate.

RSL/PC

CHAPTER 121 LAWS OF N. J. 1968
APPROVED 6-25-68

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 337

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1968

By Assemblymen COSTA, VANDER PLAAT, MORAITES, CRANE, RUSSO and VOLK

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning counties and municipalities with relation to public building contracts, and amending section 40:9–3 of the Revised Statutes.

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

1. Section 40:9–3 of the Revised Statutes is amended to read as follows:

40:9–3. In preparation of plans and specifications for the erection, alteration or repair of any public building by any political subdivision of this State, when the entire cost of the work will exceed $1,000.00 in amount, the architect engineer or other person preparing the plans and specifications, shall prepare separate plans and specifications for the plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work.

The board, body or person authorized by law to award contracts for the erection, construction, alteration or repair of any such public building, shall advertise for *and receive,* in the manner provided by law, **[**and receive**]** *(a)* separate bids for each of said branches of work, and **[**award contracts therefor**]** *also (b) bids for all the work and materials required to complete the building to be included in a single over-all contract, in which case there will be set forth in the bid the name or names of*, and evidence of performance security from,* all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, struc-*

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

tural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with this Title.

Contracts shall be awarded to the lowest responsible bidder [for each of such branches respectively.] *in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all of the work and materials, the board shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work and materials, the board shall award a single over-all contract to the lowest responsible bidder for all of such work and materials.* **[*(c) In the event a contract is awarded under (b) above the contractor shall, in addition to providing performance security as required by the board, body or person authorized by law to award such contracts, provide evidence of performance security in his favor from each of his subcontractors. (d)*]** ***(c)*** *In every case in which a contract is awarded under (b) above, all payments required to be made under such contract for work and materials supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.*

2. This act shall take effect immediately.

ASSEMBLY, No. 337

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1968

By Assemblymen COSTA, VANDER PLAAT, MORAITES, CRANE, RUSSO and VOLK

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning counties and municipalities with relation to public building contracts, and amending section 40:9–3 of the Revised Statutes.

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

1. Section 40:9–3 of the Revised Statutes is amended to read as follows:

40:9–3. In preparation of plans and specifications for the erection, alteration or repair of any public building by any political subdivision of this State, when the entire cost of the work will exceed $1,000.00 in amount, the architect engineer or other person preparing the plans and specifications, shall prepare separate plans and specifications for the plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work.

The board, body or person authorized by law to award contracts for the erection, construction, alteration or repair of any such public building, shall advertise for *and receive,* in the manner provided by law, **[**and receive**]** *(a)* separate bids for each of said branches of work, and **[**award contracts therefor**]** *also (b) bids for all the work and materials required to complete the building to be included in a single over-all contract, in which case there will be set forth in the bid the name or names of all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with this Title.*

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

Contracts shall be awarded to the lowest responsible bidder [for each of such branches respectively.] *in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all of the work and materials, the board shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work and materials, the board shall award a single over-all contract to the lowest responsible bidder for all of such work and materials. (c) In the event a contract is awarded under (b) above the contractor shall, in addition to providing performance security as required by the board, body or person authorized by law to award such contracts, provide evidence of performance security in his favor from each of his subcontractors. (d) In every case in which a contract is awarded under (b) above, all payments required to be made under such contract for work and materials supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.*

2. This act shall take effect immediately.

ASSEMBLY COMMITTEE AMENDMENT TO

ASSEMBLY, No. 337

STATE OF NEW JERSEY

ADOPTED APRIL 25, 1968

Amend page 1, section 1, line 19, after "names of", insert ", and evidence of performance security from,".

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 337

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1968

By Assemblymen COSTA, VANDER PLAAT, MORAITES, CRANE, RUSSO and VOLK

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning counties and municipalities with relation to public building contracts, and amending section 40:9–3 of the Revised Statutes.

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

1. Section 40:9–3 of the Revised Statutes is amended to read as follows:

40:9–3. In preparation of plans and specifications for the erection, alteration or repair of any public building by any political subdivision of this State, when the entire cost of the work will exceed $1,000.00 in amount, the architect engineer or other person preparing the plans and specifications, shall prepare separate plans and specifications for the plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work.

The board, body or person authorized by law to award contracts for the erection, construction, alteration or repair of any such public building, shall advertise for *and receive,* in the manner provided by law, **[**and receive**]** *(a)* separate bids for each of said branches of work, and **[**award contracts therefor**]** *also (b) bids for all the work and materials required to complete the building to be included in a single over-all contract, in which case there will be set forth in the bid the name or names of*, and evidence of performance security from,* all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, struc-*

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

tural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with this Title.

Contracts shall be awarded to the lowest responsible bidder [for each of such branches respectively.] *in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all of the work and materials, the board shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work and materials, the board shall award a single over-all contract to the lowest responsible bidder for all of such work and materials. (c) In the event a contract is awarded under (b) above the contractor shall, in addition to providing performance security as required by the board, body or person authorized by law to award such contracts, provide evidence of performance security in his favor from each of his subcontractors. (d) In every case in which a contract is awarded under (b) above, all payments required to be made under such contract for work and materials supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.*

2. This act shall take effect immediately.

SENATE COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 337

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 24, 1968

Amend page 2, section 1, lines 35 to 40, after "materials." omit subsection "(c)" in its entirety.

Amend page 2, section 1, line 40, after "contractors." omit "(d)" insert "(c)".