

18A: 18A-40.1 to 18A: 18A-40.3

LEGISLATIVE HISTORY CHECKLIST

NJSA: 18A:18A-40.1 to 18A:18A-40.3 (School contracts-- retainage provisions-- conform to local public contracts law)

LAWS OF: 1987

CHAPTER: 343

Bill No: A3589

Sponsor(s): Kelly and Thompson

Date Introduced: January 8, 1987

Committee: Assembly: Education

Senate: Education

Amended during passage: No

Date of Passage: Assembly: September 10, 1987

Senate: December 17, 1987

Date of Approval: December 24, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

ASSEMBLY, No. 3589

STATE OF NEW JERSEY

INTRODUCED JANUARY 6, 1987

By Assemblymen KELLY and THOMPSON

AN ACT concerning retainage of payment in the case of certain public school contracts and supplementing chapter 18A of Title 18A of the New Jersey Statutes.

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

1 1. Any contract or agreement, the total price of which exceeds
2 \$100,000.00, entered into by a board of education involving the con-
3 struction, reconstruction, alteration, repair or maintenance of any
4 building, structure, facility or other improvement to real property,
5 shall provide for partial payments to be made at least once each
6 month as the work progresses, unless the contractor shall agree to
7 deposit bonds with the board of education pursuant to section 2
8 of this act.

1 2. Whenever any contract, the total price of which exceeds
2 \$100,000.00, entered into by a board of education for the construc-
3 tion, reconstruction, alteration or repair of any building, structure,
4 facility or other improvement to real property, requires the with-
5 holding of payment of a percentage of the amount of the contract,
6 the contractor may agree to the withholding of payments in the
7 manner prescribed in the contract, or may deposit with the board
8 of education negotiable bearer bonds of the State of New Jersey,
9 or negotiable bearer bonds or notes of any political subdivision of
10 the State, the value of which is equal to the amount necessary to
11 satisfy the amount that otherwise would be withheld pursuant to
12 the terms of the contract. The nature and amount of the bonds or
13 notes to be deposited shall be subject to approval by the board

14 of education. For purposes of this section, "value" shall mean
15 par value or current market value, whichever is lower.

16 If the contractor agrees to the withholding of payments, the
17 amount withheld shall be deposited, with a banking institution or
18 savings and loan association insured by an agency of the federal
19 government, in an account bearing interest at the rate currently
20 paid by such institutions or associations on time or savings deposits.
21 The amount withheld, or the bonds or notes deposited, and any
22 interest accruing on such bonds or notes, shall be returned to the
23 contractor upon fulfillment of the terms of the contract relating
24 to such withholding. Any interest accruing on cash payments with-
25 held shall be credited to the board of education.

1 3. With respect to any contract or agreement entered into by a
2 board of education pursuant to section 1 of this act for which the
3 contractor shall agree to the withholding of payments pursuant to
4 section 2 of this act, 2% of the amount due on each partial payment
5 shall be withheld by the board of education pending completion of
6 the contract or agreement.

1 4. This act shall take effect immediately.

STATEMENT

This bill supplements the "Public School Contracts Law" (P. L. 1977, c. 114; C. 18A:18A-1 et seq.) to make the requirement of withholding payment from contractors until satisfactory completion of the job identical to those provisions in "The Local Public Contracts Law," (P. L. 1971, c. 198).

The bill provides that when a contract for over \$100,000.00 is entered into by a board of education involving the construction, reconstruction, alteration, repair or maintenance of any building, structure, facility or other improvements to real property, the contract shall provide for partial payments to be made unless the contractor agrees to deposit bonds. If a contractor chooses to have retainage deducted from each monthly progress payment rather than to deposit bonds, 2% of the amount due on each partial payment shall be withheld.

This bill recognizes that reducing cash flow to the contractor frequently results in delay or hardships created on the job, and that a substantial sum in retainage is hardly necessary when the entire job is covered by the contractor's payment and performance bond.

EDUCATION—GENERAL.

Conforms school contracts law with local public contracts law with respect to retainage.

ASSEMBLY, No. 3589

STATE OF NEW JERSEY

INTRODUCED JANUARY 8, 1987

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9 or negotiable bearer bonds or notes of any political subdivision of
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A3589 (1987)

ASSEMBLY EDUCATION COMMITTEE
STATEMENT TO
ASSEMBLY, No. 3589

STATE OF NEW JERSEY

DATED: MAY 18, 1987

The Assembly Education Committee favorably reports Assembly Bill No. 3589.

This bill modifies the "Public School Contracts Law" (P. L. 1977, c. 114; C. 18A:18A-1 et seq.) to make the provisions governing the withholding of payment from contractors until the satisfactory completion of a job identical to those provisions in "The Local Public Contracts Law," (P. L. 1971, c. 198).

This bill applies to any board of education contract for over \$100,000.00 which involves the construction, alteration, repair or maintenance of any building, structure, facility or other real property. Under this bill, a school board would afford a contractor the choice of depositing a bond pending the completion of the job or agreeing to a retainage deduction from each monthly progress payment. The retainage would be limited to not more than 2% of each monthly payment.

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SENATE EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3589

STATE OF NEW JERSEY

DATED: DECEMBER 7, 1987

The Senate Education Committee favorably reports Assembly Bill No. 3589 without Senate committee amendments.

This bill modifies the "Public School Contracts Law" (P. L. 1977, c. 114; C. 15A:15A-1 et seq.) to make the provisions governing the withholding of payment from contractors until the satisfactory completion of a job identical to those provisions in "The Local Public Contracts Law," (P. L. 1971, c. 198).

This bill applies to any board of education contract for over \$100,000.00 which involves the construction, alteration, repair or maintenance of any building, structure, facility or other real property. Under this bill, a school board would afford a contractor the choice of depositing a bond pending the completion of the job or agreeing to a retainage deduction from each monthly progress payment. The retainage would be limited to not more than 2% of each monthly payment.