

18A:18A-18

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2012 **CHAPTER:** 59

NJSA: 18A:18A-18 (Provides that subcontractors who furnish non-specialty trade work shall not be named in local public bid documents)

BILL NO: A2741 (Substituted for S318)

SPONSOR(S) Burzichelli and others

DATE INTRODUCED: March 15, 2012

COMMITTEE: **ASSEMBLY:** Housing and Local Government
SENATE: Community and Urban Affairs

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** May 24, 2012
SENATE: June 25, 2012

DATE OF APPROVAL: September 19, 2012

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

A2741

SPONSOR'S STATEMENT: (Begins on page 11 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S318

SPONSOR'S STATEMENT: (Begins on page 11 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: Yes

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/KR

P.L.2012, CHAPTER 59, *approved September 19, 2012*
Assembly, No. 2741 (*First Reprint*)

1 AN ACT concerning local public bid documents and amending
2 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. N.J.S.18A:18A-18 is amended to read as follows:
8 18A:18A-18. a. In the preparation of plans and specifications
9 for the construction, alteration or repair of any building by a board
10 of education, when the entire cost of the work will exceed the bid
11 threshold, separate plans and specifications may be prepared for
12 each of the following branches of work in the following categories,
13 and all work kindred thereto to be performed or furnished in
14 connection therewith:

- 15 (1) The plumbing and gas fitting work;
16 (2) The refrigeration, heating and ventilating systems and
17 equipment;
18 (3) The electrical work, including any electrical power plant ¹,
19 tele-data, fire alarm, or security system¹;
20 (4) The structural steel and ornamental iron work;
21 (5) General construction, which shall include all other work
22 required for the completion of the project.

23 b. **[The]** With regard to the branch work categories in
24 subsection a. of this section, the board of education or its
25 purchasing agent shall advertise for and receive, in the manner
26 provided by law, (1) separate bids for each of the branches of work
27 specified in subsection a. of this section, or (2) single bids by
28 general contractors for all the work, goods and services required to
29 complete the public building to be included in a single overall
30 contract, or (3) both. In the case of separate bids under paragraph
31 (1) or (3) of this subsection, contractors for categories (1) through
32 (4) of subsection a. of this section shall not be required to name
33 subcontractors in their bid. In the case of a single bid under
34 paragraph (2) or (3) of this subsection, there will be set forth in the
35 bid the name or names of all subcontractors to whom the bidder will
36 subcontract the furnishing of plumbing and gas fitting, and all
37 kindred work, and of the heating and ventilating systems and
38 equipment, and electrical work, structural steel and ornamental iron
39 work, each of which subcontractors shall be qualified in accordance
40 with N.J.S.18A:18A-1 et seq. for categories (1) through (4) of

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 AHO committee amendments adopted May 10, 2012.

1 subsection a. of this section. Subcontractors who furnish general
2 construction work pursuant to category (5) of subsection a. of this
3 section or subcontractors who furnish work to named subcontractors
4 pursuant to category (1) through (4) of subsection a. of this section
5 shall not be named in the bid. Notwithstanding the forgoing
6 provisions of this subsection, a contracting unit may choose to
7 require in its bid specification that a subcontractor shall be named
8 in a bid when, in the case of paragraph (1) of subsection b., separate
9 bids for each category, the work of that subcontractor exceeds 35
10 percent of the contracting unit's estimated amount of value of the
11 work, which shall be set forth in the bid specification. The school
12 district shall require evidence of performance security to be
13 submitted simultaneously with the list of the subcontractors.
14 Evidence of performance security may be supplied by the bidder on
15 behalf of himself and any or all subcontractors, or by each
16 respective subcontractor, or by any combination thereof which
17 results in evidence of performance security equaling, but in no
18 event exceeding, the total amount bid.

19 c. Contracts shall be awarded to the lowest responsible bidder
20 in each branch of work in the case of separate bids and to the single
21 lowest responsible bidder in the case of single bids. In the event
22 that a contract is advertised in accordance with paragraph (3) of
23 subsection b. of this section, the contract shall be awarded in the
24 following manner: If the sum total of the amounts bid by the lowest
25 responsible bidder for each branch is less than the amount bid by
26 the lowest responsible bidder for all the work, goods and services,
27 the board of education shall award separate contracts for each of
28 such branches to the lowest responsible bidder therefor, but if the
29 sum total of the amount bid by the lowest responsible bidder for
30 each branch is not less than the amount bid by the lowest
31 responsible bidder for all the work, goods and services, the board of
32 education shall award a single overall contract to the lowest
33 responsible bidder for all of such work, goods and services. In
34 every case in which a contract is awarded under paragraph (2) or (3)
35 of subsection b. of this section, all payments required to be made
36 under such contract for work, goods and services supplied by a
37 subcontractor may, upon the certification of the contractor of the
38 amount due to the subcontractor, be paid directly to the
39 subcontractor. Payments to a subcontractor for work and materials
40 supplied in connection with the contract shall be made within 10
41 calendar days of the receipt of payment for that work or the delivery
42 of those materials by the subcontractor in accordance with the
43 provisions of P.L.1991, c.133 (C.2A:30A-1 et seq.), and any
44 regulations promulgated thereunder.

45 (cf: P.L.1999, c.440, s.65)

46

47 2. Section 2 of P.L.1992, c.61 (C.18A:64-76.1) is amended to
48 read as follows:

1 2. a. Whenever the entire cost for the construction, alteration
2 or repair of any building by a State college will exceed the amount
3 determined pursuant to subsection b. of section 3 of P.L.1986, c.43
4 (C.18A:64-54), the contracting agent shall advertise for and receive
5 in the manner provided by law:

6 (1) separate bids for branches of work in the following
7 categories **[of work]**:

8 (a) the plumbing and gas fitting work;

9 (b) the refrigeration, heating and ventilating systems and
10 equipment;

11 (c) the electrical work, including any electrical power plants ¹,
12 tele-date, fire alarm, or security systems¹;

13 (d) the structural steel and ornamental iron work;

14 (e) general construction, which shall include all other work and
15 materials required for the completion of the project, or

16 (2) bids for all work and materials required to complete the
17 entire project if awarded as a single contract, or

18 (3) both (1) and (2) above.

19 In the case of separate bids under paragraph (1) or (3) of this
20 subsection, prime contractors for categories (a) through (d) shall not
21 be required to name subcontractors in their bid. In the case of a
22 single bid under paragraph (2) or (3), **[All]** all bids submitted shall
23 set forth the names and license numbers of all subcontractors to
24 whom the **[bidder]** general contractor will subcontract the work
25 described in the foregoing categories (a) through **[(e)] (d).**
26 Subcontractors who furnish non-specialty trade work pursuant to
27 category (e) in paragraph (1) of this subsection or subcontractors
28 who furnish work to named subcontractors pursuant to categories
29 (a) through (d) in paragraph (1) of this subsection shall not be
30 named in the bid. Notwithstanding the forgoing provisions of this
31 subsection, a State college may choose to require in its bid
32 specification that a subcontractor shall be named in a bid when, in
33 the case of paragraph (1), separate bids for each category, the work
34 of that subcontractor exceeds 35 percent of the State college's
35 estimated amount of value of the work, which shall be set forth in
36 the bid specification.

37 b. Contracts shall be awarded to the lowest responsible bidder
38 whose bid, conforming to the invitation for bids, will be the most
39 advantageous to the State college. Whenever two or more bids of
40 equal amounts are the lowest bids submitted by responsible parties,
41 the college may award the contract to any of the parties, as, in its
42 discretion, it may determine.

43 (cf: P.L.2005, c.369, s.13)

44
45 3. Section 25 of P.L.1982, c.189 (C.18A:64A-25.25) is
46 amended to read as follows:

1 25. a. In the preparation of plans and specifications for the
2 construction, alteration or repair of any building by a county
3 college, when the entire cost of the work and materials will exceed
4 \$25,000 or, commencing January 1, 2003, the amount determined
5 pursuant to subsection b. of section 3 of P.L.1982, c.189
6 (C.18A:64A-25.3), separate plans and specifications may be
7 prepared for each of the following branches of work in the
8 following categories, to include all work and materials related
9 thereto or to be performed or furnished in connection therewith:

10 (a) The plumbing and gas fitting work;

11 (b) The refrigeration, heating and ventilating systems and
12 equipment;

13 (c) The electrical work, including any electrical power plants ¹,
14 tele-data, fire alarm, or security systems¹;

15 (d) The structural steel and ornamental iron work;

16 (e) **[All]** General construction, which shall include all other
17 work and materials required for the completion of the project.

18 **[The]** b. With regard to the branch work categories in subsection
19 a. of this section, the contracting agent shall advertise for and
20 receive in the manner provided by law (1) separate bids for each of
21 the foregoing categories (a) through (e), or (2) single bids by
22 general contractors for all work and materials required to complete
23 the entire project, if awarded as a single contract, or (3) both. In the
24 case of separate bids under paragraph (1) or (3) of this subsection
25 for categories (a) through (d) of subsection a. of this section, prime
26 contractors shall not be required to name subcontractors in their bid.
27 In the case of a single bid under paragraph (2) or (3), all bids
28 submitted shall set forth the name or names of, and evidence of
29 performance security from, all subcontractors to whom the [bidder]
30 '[general contractor] general contractor'¹ will subcontract the work
31 described in the foregoing categories (a) through **[(e)] (d)** of
32 subsection a. of this section. Subcontractors who furnish non-
33 specialty trade work pursuant to category (e) or subcontractors who
34 furnish work to named subcontractors pursuant to categories (a)
35 through (d) shall not be named in the bid. Notwithstanding the
36 forgoing provisions of this subsection, a county college may choose
37 to require in its bid specification that a subcontractor shall be
38 named in a bid when, in the case of paragraph (1) of subsection b.
39 of this section, separate bids for each category, the work of that
40 subcontractor exceeds 35 percent of the county college's estimated
41 amount of value of the work, which shall be set forth in the bid
42 specification.

43 c. Contracts shall be awarded to the lowest responsible bidder.
44 In the event that a contract is advertised in accordance with (3)
45 above, the contract shall be awarded in the following manner: if the
46 sum total of the amounts bid by the lowest responsible bidder for
47 each category (a) through (e) is less than the amount bid by the

1 lowest responsible bidder for all the work and materials, the county
2 college shall award separate contracts for each of such categories to
3 the lowest responsible bidder therefor, but if the sum total of the
4 amount bid by the lowest responsible bidder for each category is not
5 less than the amount bid by the lowest responsible bidder for all the
6 work and materials, the county college shall award a single contract
7 to the lowest responsible bidder for all of such work and materials.
8 In every case in which a contract is awarded under (2) above, all
9 payments required to be made under the contract for work and
10 materials supplied by a subcontractor shall, upon the certification of
11 the contractor of the amount due to the subcontractor, be paid
12 directly to the subcontractor.

13 (cf: P.L.2001, c.281, s.5)

14

15 4. N.J.S.18A:72A-5 is amended to read as follows:

16 18A:72A-5. The authority shall have power:

17 (a) To adopt bylaws for the regulation of its affairs and the
18 conduct of its business;

19 (b) To adopt and have an official common seal and alter the
20 same at pleasure;

21 (c) To maintain an office at such place or places within the State
22 as it may designate;

23 (d) To sue and be sued in its own name, and plead and be
24 impleaded;

25 (e) To borrow money and to issue bonds and notes and other
26 obligations of the authority and to provide for the rights of the
27 holders thereof as provided in this chapter;

28 (f) To acquire, lease as lessee, hold and dispose of real and
29 personal property or any interest therein, in the exercise of its
30 powers and the performance of its duties under this chapter;

31 (g) To acquire in the name of the authority by purchase or
32 otherwise, on such terms and conditions and in such manner as it
33 may deem proper, or by the exercise of the power of eminent
34 domain, any land or interest therein and other property which it may
35 determine is reasonably necessary for any project, including any
36 lands held by any county, municipality or other governmental
37 subdivision of the State; and to hold and use the same and to sell,
38 convey, lease or otherwise dispose of property so acquired, no
39 longer necessary for the authority's purposes;

40 (h) To receive and accept, from any federal or other public
41 agency or governmental entity, grants or loans for or in aid of the
42 acquisition or construction of any project, and to receive and accept
43 aid or contributions from any other source, of either money,
44 property, labor or other things of value, to be held, used and applied
45 only for the purposes for which such grants, loans and contributions
46 may be made;

47 (i) To prepare or cause to be prepared plans, specifications,
48 designs and estimates of costs for the construction and equipment of

1 projects for participating colleges under the provisions of this
2 chapter, and from time to time to modify such plans, specifications,
3 designs or estimates;

4 (j) By contract or contracts or by its own employees to
5 construct, acquire, reconstruct, rehabilitate and improve, and
6 furnish and equip, projects for participating colleges; however, in
7 any contract or contracts undertaken by the authority for the
8 construction, reconstruction, rehabilitation or improvement of any
9 public college project where the cost of such work will exceed
10 \$25,000, the contracting agent shall advertise for and receive in the
11 manner provided by law:

12 (1) separate bids for branches of work in the following
13 categories **[of work;]** :

14 (a) the plumbing and gas fitting work;

15 (b) the refrigeration, heating and ventilating systems and
16 equipment;

17 (c) the electrical work, including any electrical power plants ¹,
18 tele-data, fire alarm, or security system¹;

19 (d) the structural steel and ornamental iron work;

20 (e) **[all]** general construction, which shall include all other
21 work and materials required for the completion of the project, or

22 (2) bids for all work and materials required to complete the
23 entire project if awarded as a single contract; or

24 (3) both (1) and (2) above.

25 In the case of separate bids pursuant to paragraph (1) or (3) of
26 this subsection, prime contractors shall not be required to name
27 subcontractors for categories (a) through (d) in their bid. In the
28 case of a single bid under paragraph (2) or (3), all bids submitted
29 shall set forth the names and license numbers of, and evidence of
30 performance security from, all subcontractors to whom the **[bidder]**
31 general contractor will subcontract the work described in the
32 foregoing categories **[(1)(a)] (a) through [(1)(e)] (d) in paragraph**
33 (1). Subcontractors who furnish non-specialty trade work pursuant
34 to category (e), or subcontractors who furnish work to named
35 subcontractors pursuant to categories (a) through (d), shall not be
36 named in the bid. Notwithstanding the forgoing provisions of this
37 subsection, an authority may choose to require in its bid
38 specification that a subcontractor shall be named in a bid when, in
39 the case of paragraph (1), separate bids for each category, the work
40 of that subcontractor exceeds 35 percent of the authority's
41 estimated amount of value of the work, which shall be set forth in
42 the bid specification.

43 Contracts shall be awarded to the lowest responsible bidder
44 whose bid, conforming to the invitation for bids, will be the most
45 advantageous to the authority;

46 (k) To determine the location and character of any project to be
47 undertaken pursuant to the provisions of this chapter, and to

1 construct, reconstruct, maintain, repair, operate, lease, as lessee or
2 lessor, and regulate the same; to enter into contracts for any or all
3 such purposes; to enter into contracts for the management and
4 operation of a project, and to designate a participating college as its
5 agent to determine the location and character of a project
6 undertaken by such participating college under the provisions of
7 this chapter and, as the agent of the authority, to construct,
8 reconstruct, maintain, repair, operate, lease, as lessee or lessor, and
9 regulate the same, and, as agent of the authority, to enter into
10 contracts for any and all such purposes including contracts for the
11 management and operation of such project;

12 (l) To establish rules and regulations for the use of a project or
13 any portion thereof and to designate a participating college as its
14 agent to establish rules and regulations for the use of a project
15 undertaken by such participating college;

16 (m) Generally to fix and revise from time to time and to charge
17 and collect rates, rents, fees and other charges for the use of and for
18 the services furnished or to be furnished by a project or any portion
19 thereof and to contract with holders of its bonds and with any other
20 person, party, association, corporation or other body, public or
21 private, in respect thereof;

22 (n) To enter into any and all agreements or contracts, execute
23 any and all instruments, and do and perform any and all acts or
24 things necessary, convenient or desirable for the purposes of the
25 authority or to carry out any power expressly given in this chapter;

26 (o) To invest any moneys held in reserve or sinking funds, or
27 any moneys not required for immediate use or disbursement, at the
28 discretion of the authority, in such obligations as are authorized by
29 law for the investment of trust funds in the custody of the State
30 Treasurer;

31 (p) To enter into any lease relating to higher education
32 equipment with a public or private institution of higher education
33 pursuant to the provisions of P.L.1993, c.136 (C.18A:72A-40 et
34 al.);

35 (q) To enter into loan agreements with any county, to hold
36 bonds or notes of the county evidencing those loans, and to issue
37 bonds or notes of the authority to finance county college capital
38 projects pursuant to the provisions of the "County College Capital
39 Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

40 (r) To issue bonds and notes and other obligations of the
41 authority under the direction of law for the purpose of providing
42 financial assistance for the installation of fire prevention and safety
43 systems in dormitories.

44 (cf: P.L.2000, c.56, s.11)

45

46 5. Section 16 of P.L.1971, c.198 (C.40A:11-16) is amended to
47 read as follows:

1 16. a. (1) In the preparation of plans and specifications for the
2 construction, alteration or repair of any public building by any
3 contracting unit, when the entire cost of the work will exceed the
4 bid threshold, the architect, engineer or other person preparing the
5 plans and specifications may prepare separate plans and
6 specifications for branches of work in the following categories:

7 (1) The plumbing and gas fitting and all kindred work;

8 (2) Steam power plants, steam and hot water heating and
9 ventilating and refrigeration apparatus and all kindred work;

10 (3) Electrical work ¹, including any electrical power plants, tele-
11 data, fire alarm, or security system¹;

12 (4) Structural steel and ornamental iron work; and

13 (5) **[All]** General construction, which shall include all other
14 work required for the completion of the project.

15 **[The]** (2) With regard to the branch work categories in
16 paragraph (1) of this subsection, the contracting agent shall
17 advertise for and receive, in the manner provided by law, either (a)
18 separate bids for each of said **[branches of work]** categories, or (b)
19 single bids by general contractors for all the work, goods and
20 services required to complete the public building to be included in a
21 single overall contract, or (c) both. In the case of separate bids
22 under (a) or (c) of this paragraph, contractors for categories (1)
23 through (4) shall not be required to name subcontractors in their
24 bid. In the case of a single bid under (b) or (c), there shall be set
25 forth in the bid the name or names of all subcontractors to whom
26 the **[bidder]** general contractor will subcontract **[the furnishing of**
27 plumbing and gas fitting, and all kindred work, and of the steam
28 and hot water heating and ventilating apparatus, steam power plants
29 and kindred work, and electrical work, structural steel and
30 ornamental iron work, each of which subcontractors shall be
31 qualified in accordance with P.L.1971, c.198 (C.40A:11-1 et seq.)]
32 for categories (1) through (4). Subcontractors who furnish general
33 construction work pursuant to category (5), or subcontractors who
34 furnish work to named subcontractors pursuant to categories (1)
35 through (4) shall not be named in the bid. Notwithstanding the
36 forgoing provisions of this paragraph, a contracting unit may
37 choose to require in its bid specification that a subcontractor shall
38 be named in a bid when, in the case of (a) of this paragraph,
39 separate bids for each category, the work of that subcontractor
40 exceeds 35 percent of the contracting unit's estimated amount of
41 value of the work, which shall be set forth in the bid specification.

42 (3) The contracting unit shall require evidence of performance
43 security to be submitted simultaneously with the **[list of the**
44 subcontractors] bid. Evidence of performance security may be
45 supplied by the bidder on behalf of himself and any or all
46 subcontractors, or by each respective subcontractor, or by any

1 combination thereof which results in evidence of performance
2 security equaling, but in no event exceeding, the total amount bid.

3 b. Whenever a bid sets forth more than one subcontractor for
4 any of the **[specialty trade]** categories (1) through (4) **[specified]**
5 in paragraph (1) of subsection a. of this section, the bidder shall
6 submit to the contracting unit a certificate signed by the bidder
7 listing each subcontractor named in the bid for that category. The
8 certificate shall set forth the scope of work, goods and services for
9 which the subcontractor has submitted a price quote and which the
10 bidder has agreed to award to each subcontractor should the bidder
11 be awarded the contract. The certificate shall be submitted to the
12 contracting unit simultaneously with the list of the subcontractors.
13 The certificate may take the form of a single certificate listing all
14 subcontractors or, alternatively, a separate certificate may be
15 submitted for each subcontractor. If a bidder does not submit a
16 certificate or certificates to the contracting unit, the contracting unit
17 shall award the contract to the next lowest responsible bidder.

18 c. Contracts shall be awarded to the lowest responsible bidder.
19 In the event that a contract is advertised for both separate bids for
20 each branch of work and for bids for all work, goods, and services,
21 said contract shall be awarded in the following manner: If the sum
22 total of the amounts bid by the lowest responsible bidder for each
23 branch is less than the amount bid by the lowest responsible bidder
24 for all the work, goods and services, the contracting unit shall
25 award separate contracts for each of such branches to the lowest
26 responsible bidder therefor, but if the sum total of the amounts bid
27 by the lowest responsible bidder for each branch is not less than the
28 amount bid by the lowest responsible bidder for all the work, goods
29 and services, the contracting unit shall award a single overall
30 contract to the lowest responsible bidder for all of such work, goods
31 and services. In every case in which a contract is awarded for a
32 single overall contract, all payments required to be made under such
33 contract for work, goods and services supplied by a subcontractor
34 shall, upon the certification of the contractor of the amount due to
35 the subcontractor, be paid directly to the subcontractor.

36 d. Any bid specification prepared pursuant to this section that
37 includes the use of 1,000 or more tons of hot mix asphalt, shall
38 include a pay item for any asphalt price adjustment reflecting
39 changes in the cost of asphalt cement. Any bid specification
40 prepared pursuant to this section that includes the use of less than
41 1,000 tons of hot mix asphalt, shall include a pay item for an
42 asphalt price adjustment for any quantity of hot mix asphalt
43 exceeding 1,000 tons that may be used in the work in the event that
44 performance of the work, including change orders, requires more
45 than 1,000 tons of hot mix asphalt.

46 The asphalt price adjustment shall be calculated in accordance
47 with the formula and relevant instructions published in the most
48 recent edition of the New Jersey Department of Transportation

1 Standard Specifications for Road and Bridge Construction as
2 revised by the "Standard Inputs" periodically issued by the
3 department. All invoices for payment shall be accompanied by the
4 calculation of any asphalt price adjustment and a showing of the
5 current month's Asphalt Price Index, the Basic Asphalt Price Index.

6 e. (1) Every bid specification prepared pursuant to this section
7 may be eligible for a fuel price adjustment. Fuel that is eligible for
8 a fuel price adjustment shall be the sum of the quantities of the
9 eligible pay items in the contract times the fuel usage factors as
10 determined by the Department of Transportation. The types of fuel
11 furnished shall be at the option of the contractor.

12 (2) The fuel requirement for items not determined by the
13 Department of Transportation to be eligible, and for pay items in
14 the bid specifications calling for less than 500 gallons of fuel, shall
15 not be eligible for a fuel price adjustment. If more than one pay
16 item has the same nomenclature but with different thicknesses,
17 depths, or types, each individual pay item must require 500 gallons
18 or more of fuel to be eligible for a fuel price adjustment. If more
19 than one pay item has the exact same nomenclature, similar pay
20 items shall be combined and this combination must require 500
21 gallons or more of fuel to be eligible for the fuel price adjustment.

22 (3) Fuel price adjustments shall not be made in those months for
23 which the monthly fuel price index has changed by less than five
24 percent from the basic fuel price.

25 f. As used in subsections d. and e. of this section:

26 "Asphalt Price Index" means the Asphalt Price Index as
27 determined and published by the New Jersey Department of
28 Transportation.

29 "Basic Asphalt Price Index" means the Basic Asphalt Price Index
30 as published by the New Jersey Department of Transportation in its
31 "Standard Specifications for Road and Bridge Construction," as
32 revised by the "Standard Inputs" periodically issued by the New
33 Jersey Department of Transportation.

34 "Fuel Price Index" means the Fuel Price Index as determined and
35 published by the New Jersey Department of Transportation.

36 "Pay Item" means a specifically described item of work for
37 which the bidder provides a per unit or lump sum price in a bid
38 specification as determined and published by the New Jersey
39 Department of Transportation.

40 (cf: P.L.2009, c.187, s.1)

41
42 6. This act shall take effect on the first day of the third month
43 next following enactment.

44
45 _____
46
47 Provides that subcontractors who furnish non-specialty trade
48 work shall not be named in local public bid documents.

ASSEMBLY, No. 2741

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED MARCH 15, 2012

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)
Assemblyman JON M. BRAMNICK
District 21 (Morris, Somerset and Union)

SYNOPSIS

Provides that subcontractors who furnish non-specialty trade work shall not be named in local public bid documents.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/11/2012)

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12 each of the following branches of work in the following categories,
13 and all work kindred thereto to be performed or furnished in
14 connection therewith:

15 (1) The plumbing and gas fitting work;

16 (2) The refrigeration, heating and ventilating systems and
17 equipment;

18 (3) The electrical work, including any electrical power plant;

19 (4) The structural steel and ornamental iron work;

20 (5) General construction, which shall include all other work
21 required for the completion of the project.

22 b. **[The]** With regard to the branch work categories in
23 subsection a. of this section, the board of education or its
24 purchasing agent shall advertise for and receive, in the manner
25 provided by law, (1) separate bids for each of the branches of work
26 specified in subsection a. of this section, or (2) single bids by
27 general contractors for all the work, goods and services required to
28 complete the public building to be included in a single overall
29 contract, or (3) both. In the case of separate bids under paragraph
30 (1) or (3) of this subsection, contractors for categories (1) through
31 (4) of subsection a. of this section shall not be required to name
32 subcontractors in their bid. In the case of a single bid under
33 paragraph (2) or (3) of this subsection, there will be set forth in the
34 bid the name or names of all subcontractors to whom the bidder will
35 subcontract the furnishing of plumbing and gas fitting, and all
36 kindred work, and of the heating and ventilating systems and
37 equipment, and electrical work, structural steel and ornamental iron
38 work, each of which subcontractors shall be qualified in accordance
39 with N.J.S.18A:18A-1 et seq. for categories (1) through (4) of
40 subsection a. of this section. Subcontractors who furnish general
41 construction work pursuant to category (5) of subsection a. of this
42 section or subcontractors who furnish work to named subcontractors
43 pursuant to category (1) through (4) of subsection a. of this section
44 shall not be named in the bid. Notwithstanding the forgoing
45 provisions of this subsection, a contracting unit may choose to

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 require in its bid specification that a subcontractor shall be named
2 in a bid when, in the case of paragraph (1) of subsection b., separate
3 bids for each category, the work of that subcontractor exceeds 35
4 percent of the contracting unit's estimated amount of value of the
5 work, which shall be set forth in the bid specification. The school
6 district shall require evidence of performance security to be
7 submitted simultaneously with the list of the subcontractors.
8 Evidence of performance security may be supplied by the bidder on
9 behalf of himself and any or all subcontractors, or by each
10 respective subcontractor, or by any combination thereof which
11 results in evidence of performance security equaling, but in no
12 event exceeding, the total amount bid.

13 c. Contracts shall be awarded to the lowest responsible bidder
14 in each branch of work in the case of separate bids and to the single
15 lowest responsible bidder in the case of single bids. In the event
16 that a contract is advertised in accordance with paragraph (3) of
17 subsection b. of this section, the contract shall be awarded in the
18 following manner: If the sum total of the amounts bid by the lowest
19 responsible bidder for each branch is less than the amount bid by
20 the lowest responsible bidder for all the work, goods and services,
21 the board of education shall award separate contracts for each of
22 such branches to the lowest responsible bidder therefor, but if the
23 sum total of the amount bid by the lowest responsible bidder for
24 each branch is not less than the amount bid by the lowest
25 responsible bidder for all the work, goods and services, the board of
26 education shall award a single overall contract to the lowest
27 responsible bidder for all of such work, goods and services. In
28 every case in which a contract is awarded under paragraph (2) or (3)
29 of subsection b. of this section, all payments required to be made
30 under such contract for work, goods and services supplied by a
31 subcontractor may, upon the certification of the contractor of the
32 amount due to the subcontractor, be paid directly to the
33 subcontractor. Payments to a subcontractor for work and materials
34 supplied in connection with the contract shall be made within 10
35 calendar days of the receipt of payment for that work or the delivery
36 of those materials by the subcontractor in accordance with the
37 provisions of P.L.1991, c.133 (C.2A:30A-1 et seq.), and any
38 regulations promulgated thereunder.
39 (cf: P.L.1999, c.440, s.65)

40
41 2. Section 2 of P.L.1992, c.61 (C.18A:64-76.1) is amended to
42 read as follows:

43 2. a. Whenever the entire cost for the construction, alteration
44 or repair of any building by a State college will exceed the amount
45 determined pursuant to subsection b. of section 3 of P.L.1986, c.43
46 (C.18A:64-54), the contracting agent shall advertise for and receive
47 in the manner provided by law:

1 (1) separate bids for branches of work in the following
2 categories **[of work]**:

- 3 (a) the plumbing and gas fitting work;
4 (b) the refrigeration, heating and ventilating systems and
5 equipment;
6 (c) the electrical work, including any electrical power plants;
7 (d) the structural steel and ornamental iron work;
8 (e) general construction, which shall include all other work and
9 materials required for the completion of the project, or

10 (2) bids for all work and materials required to complete the
11 entire project if awarded as a single contract, or

12 (3) both (1) and (2) above.

13 In the case of separate bids under paragraph (1) or (3) of this
14 subsection, prime contractors for categories (a) through (d) shall not
15 be required to name subcontractors in their bid. In the case of a
16 single bid under paragraph (2) or (3), **[All]** all bids submitted shall
17 set forth the names and license numbers of all subcontractors to
18 whom the **[bidder]** general contractor will subcontract the work
19 described in the foregoing categories (a) through **[(e)] (d).**
20 Subcontractors who furnish non-specialty trade work pursuant to
21 category (e) in paragraph (1) of this subsection or subcontractors
22 who furnish work to named subcontractors pursuant to categories
23 (a) through (d) in paragraph (1) of this subsection shall not be
24 named in the bid. Notwithstanding the forgoing provisions of this
25 subsection, a State college may choose to require in its bid
26 specification that a subcontractor shall be named in a bid when, in
27 the case of paragraph (1), separate bids for each category, the work
28 of that subcontractor exceeds 35 percent of the State college's
29 estimated amount of value of the work, which shall be set forth in
30 the bid specification.

31 b. Contracts shall be awarded to the lowest responsible bidder
32 whose bid, conforming to the invitation for bids, will be the most
33 advantageous to the State college. Whenever two or more bids of
34 equal amounts are the lowest bids submitted by responsible parties,
35 the college may award the contract to any of the parties, as, in its
36 discretion, it may determine.

37 (cf: P.L.2005, c.369, s.13)

38

39 3. Section 25 of P.L.1982, c.189 (C.18A:64A-25.25) is
40 amended to read as follows:

41 25. a. In the preparation of plans and specifications for the
42 construction, alteration or repair of any building by a county
43 college, when the entire cost of the work and materials will exceed
44 \$25,000 or, commencing January 1, 2003, the amount determined
45 pursuant to subsection b. of section 3 of P.L.1982, c.189
46 (C.18A:64A-25.3), separate plans and specifications may be
47 prepared for each of the following branches of work in the

1 following categories, to include all work and materials related
2 thereto or to be performed or furnished in connection therewith:

- 3 (a) The plumbing and gas fitting work;
4 (b) The refrigeration, heating and ventilating systems and
5 equipment;
6 (c) The electrical work, including any electrical power plants;
7 (d) The structural steel and ornamental iron work;
8 (e) **【All】** General construction, which shall include all other
9 work and materials required for the completion of the project.

10 **【The】** b. With regard to the branch work categories in subsection
11 a. of this section, the contracting agent shall advertise for and
12 receive in the manner provided by law (1) separate bids for each of
13 the foregoing categories (a) through (e), or (2) single bids by
14 general contractors for all work and materials required to complete
15 the entire project, if awarded as a single contract, or (3) both. In the
16 case of separate bids under paragraph (1) or (3) of this subsection
17 for categories (a) through (d) of subsection a. of this section, prime
18 contractors shall not be required to name subcontractors in their bid.
19 In the case of a single bid under paragraph (2) or (3), all bids
20 submitted shall set forth the name or names of, and evidence of
21 performance security from, all subcontractors to whom the **【bidder】**
22 general contractor will subcontract the work described in the
23 foregoing categories (a) through **【(e)】 (d) of subsection a. of this**
24 section. Subcontractors who furnish non-specialty trade work
25 pursuant to category (e) or subcontractors who furnish work to
26 named subcontractors pursuant to categories (a) through (d) shall
27 not be named in the bid. Notwithstanding the forgoing provisions
28 of this subsection, a county college may choose to require in its bid
29 specification that a subcontractor shall be named in a bid when, in
30 the case of paragraph (1) of subsection b. of this section, separate
31 bids for each category, the work of that subcontractor exceeds 35
32 percent of the county college's estimated amount of value of the
33 work, which shall be set forth in the bid specification.

34 c. Contracts shall be awarded to the lowest responsible bidder.
35 In the event that a contract is advertised in accordance with (3)
36 above, the contract shall be awarded in the following manner: if the
37 sum total of the amounts bid by the lowest responsible bidder for
38 each category (a) through (e) is less than the amount bid by the
39 lowest responsible bidder for all the work and materials, the county
40 college shall award separate contracts for each of such categories to
41 the lowest responsible bidder therefor, but if the sum total of the
42 amount bid by the lowest responsible bidder for each category is not
43 less than the amount bid by the lowest responsible bidder for all the
44 work and materials, the county college shall award a single contract
45 to the lowest responsible bidder for all of such work and materials.
46 In every case in which a contract is awarded under (2) above, all
47 payments required to be made under the contract for work and
48 materials supplied by a subcontractor shall, upon the certification of

1 the contractor of the amount due to the subcontractor, be paid
2 directly to the subcontractor.

3 (cf: P.L.2001, c.281, s.5)

4

5 4. N.J.S.18A:72A-5 is amended to read as follows:

6 18A:72A-5. The authority shall have power:

7 (a) To adopt bylaws for the regulation of its affairs and the
8 conduct of its business;

9 (b) To adopt and have an official common seal and alter the
10 same at pleasure;

11 (c) To maintain an office at such place or places within the State
12 as it may designate;

13 (d) To sue and be sued in its own name, and plead and be
14 impleaded;

15 (e) To borrow money and to issue bonds and notes and other
16 obligations of the authority and to provide for the rights of the
17 holders thereof as provided in this chapter;

18 (f) To acquire, lease as lessee, hold and dispose of real and
19 personal property or any interest therein, in the exercise of its
20 powers and the performance of its duties under this chapter;

21 (g) To acquire in the name of the authority by purchase or
22 otherwise, on such terms and conditions and in such manner as it
23 may deem proper, or by the exercise of the power of eminent
24 domain, any land or interest therein and other property which it may
25 determine is reasonably necessary for any project, including any
26 lands held by any county, municipality or other governmental
27 subdivision of the State; and to hold and use the same and to sell,
28 convey, lease or otherwise dispose of property so acquired, no
29 longer necessary for the authority's purposes;

30 (h) To receive and accept, from any federal or other public
31 agency or governmental entity, grants or loans for or in aid of the
32 acquisition or construction of any project, and to receive and accept
33 aid or contributions from any other source, of either money,
34 property, labor or other things of value, to be held, used and applied
35 only for the purposes for which such grants, loans and contributions
36 may be made;

37 (i) To prepare or cause to be prepared plans, specifications,
38 designs and estimates of costs for the construction and equipment of
39 projects for participating colleges under the provisions of this
40 chapter, and from time to time to modify such plans, specifications,
41 designs or estimates;

42 (j) By contract or contracts or by its own employees to
43 construct, acquire, reconstruct, rehabilitate and improve, and
44 furnish and equip, projects for participating colleges; however, in
45 any contract or contracts undertaken by the authority for the
46 construction, reconstruction, rehabilitation or improvement of any
47 public college project where the cost of such work will exceed

1 \$25,000, the contracting agent shall advertise for and receive in the
2 manner provided by law:

3 (1) separate bids for branches of work in the following
4 categories **[of work;]** :

5 (a) the plumbing and gas fitting work;

6 (b) the refrigeration, heating and ventilating systems and
7 equipment;

8 (c) the electrical work, including any electrical power plants;

9 (d) the structural steel and ornamental iron work;

10 (e) **[all]** general construction, which shall include all other
11 work and materials required for the completion of the project, or

12 (2) bids for all work and materials required to complete the
13 entire project if awarded as a single contract; or

14 (3) both (1) and (2) above.

15 In the case of separate bids pursuant to paragraph (1) or (3) of
16 this subsection, prime contractors shall not be required to name
17 subcontractors for categories (a) through (d) in their bid. In the
18 case of a single bid under paragraph (2) or (3), all bids submitted
19 shall set forth the names and license numbers of, and evidence of
20 performance security from, all subcontractors to whom the [bidder]
21 general contractor will subcontract the work described in the
22 foregoing categories [(1)(a)] (a) through [(1)(e)] (d) in paragraph
23 (1). Subcontractors who furnish non-specialty trade work pursuant
24 to category (e), or subcontractors who furnish work to named
25 subcontractors pursuant to categories (a) through (d), shall not be
26 named in the bid. Notwithstanding the forgoing provisions of this
27 subsection, an authority may choose to require in its bid
28 specification that a subcontractor shall be named in a bid when, in
29 the case of paragraph (1), separate bids for each category, the work
30 of that subcontractor exceeds 35 percent of the authority's
31 estimated amount of value of the work, which shall be set forth in
32 the bid specification.

33 Contracts shall be awarded to the lowest responsible bidder
34 whose bid, conforming to the invitation for bids, will be the most
35 advantageous to the authority;

36 (k) To determine the location and character of any project to be
37 undertaken pursuant to the provisions of this chapter, and to
38 construct, reconstruct, maintain, repair, operate, lease, as lessee or
39 lessor, and regulate the same; to enter into contracts for any or all
40 such purposes; to enter into contracts for the management and
41 operation of a project, and to designate a participating college as its
42 agent to determine the location and character of a project
43 undertaken by such participating college under the provisions of
44 this chapter and, as the agent of the authority, to construct,
45 reconstruct, maintain, repair, operate, lease, as lessee or lessor, and
46 regulate the same, and, as agent of the authority, to enter into
47 contracts for any and all such purposes including contracts for the
48 management and operation of such project;

1 (l) To establish rules and regulations for the use of a project or
2 any portion thereof and to designate a participating college as its
3 agent to establish rules and regulations for the use of a project
4 undertaken by such participating college;

5 (m) Generally to fix and revise from time to time and to charge
6 and collect rates, rents, fees and other charges for the use of and for
7 the services furnished or to be furnished by a project or any portion
8 thereof and to contract with holders of its bonds and with any other
9 person, party, association, corporation or other body, public or
10 private, in respect thereof;

11 (n) To enter into any and all agreements or contracts, execute
12 any and all instruments, and do and perform any and all acts or
13 things necessary, convenient or desirable for the purposes of the
14 authority or to carry out any power expressly given in this chapter;

15 (o) To invest any moneys held in reserve or sinking funds, or
16 any moneys not required for immediate use or disbursement, at the
17 discretion of the authority, in such obligations as are authorized by
18 law for the investment of trust funds in the custody of the State
19 Treasurer;

20 (p) To enter into any lease relating to higher education
21 equipment with a public or private institution of higher education
22 pursuant to the provisions of P.L.1993, c.136 (C.18A:72A-40 et
23 al.);

24 (q) To enter into loan agreements with any county, to hold
25 bonds or notes of the county evidencing those loans, and to issue
26 bonds or notes of the authority to finance county college capital
27 projects pursuant to the provisions of the "County College Capital
28 Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

29 (r) To issue bonds and notes and other obligations of the
30 authority under the direction of law for the purpose of providing
31 financial assistance for the installation of fire prevention and safety
32 systems in dormitories.

33 (cf: P.L.2000, c.56, s.11)

34

35 5. Section 16 of P.L.1971, c.198 (C.40A:11-16) is amended to
36 read as follows:

37 16. a. (1) In the preparation of plans and specifications for the
38 construction, alteration or repair of any public building by any
39 contracting unit, when the entire cost of the work will exceed the
40 bid threshold, the architect, engineer or other person preparing the
41 plans and specifications may prepare separate plans and
42 specifications for branches of work in the following categories:

43 (1) The plumbing and gas fitting and all kindred work;

44 (2) Steam power plants, steam and hot water heating and
45 ventilating and refrigeration apparatus and all kindred work;

46 (3) Electrical work;

47 (4) Structural steel and ornamental iron work; and

1 (5) **[All]** General construction, which shall include all other
2 work required for the completion of the project.

3 **[The]** (2) With regard to the branch work categories in
4 paragraph (1) of this subsection, the contracting agent shall
5 advertise for and receive, in the manner provided by law, either (a)
6 separate bids for each of said **[branches of work]** categories, or (b)
7 single bids by general contractors for all the work, goods and
8 services required to complete the public building to be included in a
9 single overall contract, or (c) both. In the case of separate bids
10 under (a) or (c) of this paragraph, contractors for categories (1)
11 through (4) shall not be required to name subcontractors in their
12 bid. In the case of a single bid under (b) or (c), there shall be set
13 forth in the bid the name or names of all subcontractors to whom
14 the **[bidder]** general contractor will subcontract **[the furnishing of**
15 **plumbing and gas fitting, and all kindred work, and of the steam**
16 **and hot water heating and ventilating apparatus, steam power plants**
17 **and kindred work, and electrical work, structural steel and**
18 **ornamental iron work, each of which subcontractors shall be**
19 **qualified in accordance with P.L.1971, c.198 (C.40A:11-1 et seq.)]**
20 for categories (1) through (4). Subcontractors who furnish general
21 construction work pursuant to category (5), or subcontractors who
22 furnish work to named subcontractors pursuant to categories (1)
23 through (4) shall not be named in the bid. Notwithstanding the
24 forgoing provisions of this paragraph, a contracting unit may
25 choose to require in its bid specification that a subcontractor shall
26 be named in a bid when, in the case of (a) of this paragraph,
27 separate bids for each category, the work of that subcontractor
28 exceeds 35 percent of the contracting unit's estimated amount of
29 value of the work, which shall be set forth in the bid specification.

30 (3) The contracting unit shall require evidence of performance
31 security to be submitted simultaneously with the **[list of the**
32 **subcontractors]** bid. Evidence of performance security may be
33 supplied by the bidder on behalf of himself and any or all
34 subcontractors, or by each respective subcontractor, or by any
35 combination thereof which results in evidence of performance
36 security equaling, but in no event exceeding, the total amount bid.

37 b. Whenever a bid sets forth more than one subcontractor for
38 any of the **[specialty trade]** categories (1) through (4) **[specified]**
39 in paragraph (1) of subsection a. of this section, the bidder shall
40 submit to the contracting unit a certificate signed by the bidder
41 listing each subcontractor named in the bid for that category. The
42 certificate shall set forth the scope of work, goods and services for
43 which the subcontractor has submitted a price quote and which the
44 bidder has agreed to award to each subcontractor should the bidder
45 be awarded the contract. The certificate shall be submitted to the
46 contracting unit simultaneously with the list of the subcontractors.
47 The certificate may take the form of a single certificate listing all

1 subcontractors or, alternatively, a separate certificate may be
2 submitted for each subcontractor. If a bidder does not submit a
3 certificate or certificates to the contracting unit, the contracting unit
4 shall award the contract to the next lowest responsible bidder.

5 c. Contracts shall be awarded to the lowest responsible bidder.
6 In the event that a contract is advertised for both separate bids for
7 each branch of work and for bids for all work, goods, and services,
8 said contract shall be awarded in the following manner: If the sum
9 total of the amounts bid by the lowest responsible bidder for each
10 branch is less than the amount bid by the lowest responsible bidder
11 for all the work, goods and services, the contracting unit shall
12 award separate contracts for each of such branches to the lowest
13 responsible bidder therefor, but if the sum total of the amounts bid
14 by the lowest responsible bidder for each branch is not less than the
15 amount bid by the lowest responsible bidder for all the work, goods
16 and services, the contracting unit shall award a single overall
17 contract to the lowest responsible bidder for all of such work, goods
18 and services. In every case in which a contract is awarded for a
19 single overall contract, all payments required to be made under such
20 contract for work, goods and services supplied by a subcontractor
21 shall, upon the certification of the contractor of the amount due to
22 the subcontractor, be paid directly to the subcontractor.

23 d. Any bid specification prepared pursuant to this section that
24 includes the use of 1,000 or more tons of hot mix asphalt, shall
25 include a pay item for any asphalt price adjustment reflecting
26 changes in the cost of asphalt cement. Any bid specification
27 prepared pursuant to this section that includes the use of less than
28 1,000 tons of hot mix asphalt, shall include a pay item for an
29 asphalt price adjustment for any quantity of hot mix asphalt
30 exceeding 1,000 tons that may be used in the work in the event that
31 performance of the work, including change orders, requires more
32 than 1,000 tons of hot mix asphalt.

33 The asphalt price adjustment shall be calculated in accordance
34 with the formula and relevant instructions published in the most
35 recent edition of the New Jersey Department of Transportation
36 Standard Specifications for Road and Bridge Construction as
37 revised by the "Standard Inputs" periodically issued by the
38 department. All invoices for payment shall be accompanied by the
39 calculation of any asphalt price adjustment and a showing of the
40 current month's Asphalt Price Index, the Basic Asphalt Price Index.

41 e. (1) Every bid specification prepared pursuant to this section
42 may be eligible for a fuel price adjustment. Fuel that is eligible for
43 a fuel price adjustment shall be the sum of the quantities of the
44 eligible pay items in the contract times the fuel usage factors as
45 determined by the Department of Transportation. The types of fuel
46 furnished shall be at the option of the contractor.

47 (2) The fuel requirement for items not determined by the
48 Department of Transportation to be eligible, and for pay items in

1 the bid specifications calling for less than 500 gallons of fuel, shall
2 not be eligible for a fuel price adjustment. If more than one pay
3 item has the same nomenclature but with different thicknesses,
4 depths, or types, each individual pay item must require 500 gallons
5 or more of fuel to be eligible for a fuel price adjustment. If more
6 than one pay item has the exact same nomenclature, similar pay
7 items shall be combined and this combination must require 500
8 gallons or more of fuel to be eligible for the fuel price adjustment.

9 (3) Fuel price adjustments shall not be made in those months for
10 which the monthly fuel price index has changed by less than five
11 percent from the basic fuel price.

12 f. As used in subsections d. and e. of this section:

13 "Asphalt Price Index" means the Asphalt Price Index as
14 determined and published by the New Jersey Department of
15 Transportation.

16 "Basic Asphalt Price Index" means the Basic Asphalt Price Index
17 as published by the New Jersey Department of Transportation in its
18 "Standard Specifications for Road and Bridge Construction," as
19 revised by the "Standard Inputs" periodically issued by the New
20 Jersey Department of Transportation.

21 "Fuel Price Index" means the Fuel Price Index as determined and
22 published by the New Jersey Department of Transportation.

23 "Pay Item" means a specifically described item of work for
24 which the bidder provides a per unit or lump sum price in a bid
25 specification as determined and published by the New Jersey
26 Department of Transportation.

27 (cf: P.L.2009, c.187, s.1)

28

29 6. This act shall take effect on the first day of the third month
30 next following enactment.

31

32

33

STATEMENT

34

35 This bill provides, or otherwise clarifies, that when a local unit
36 requests bids for the erection or construction of a building or
37 project, the bid documents need only set forth the name or names of
38 all subcontractors to whom the bidder will subcontract the
39 furnishing of plumbing and gas fitting work, refrigeration, steam
40 and hot water heating, and ventilating apparatus, steam power
41 plants, electrical work, and structural steel and ornamental iron
42 work. Subcontractors who furnish non-specialty trade work, or
43 subcontractors who furnish work to named prime subcontractors,
44 shall not be named in the bid documents. The bill also provides that
45 if a contracting entity requires the naming of an additional
46 subcontractor at the time of bid, that subcontractor's scope of work
47 must exceed 35% of the total contract value for the branch of work.
48 The bill does not apply to State government contracts.

A2741 BURZICHELLI, BRAMNICK

12

1 This bill would apply to State colleges, county colleges, and
2 other institutions.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2741

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 10, 2012

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 2741.

As amended by the committee, this bill provides, or otherwise clarifies, that when a local unit requests bids for the erection or construction of a building or project, the bid documents need only set forth the name or names of all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting work, refrigeration, steam and hot water heating, and ventilating apparatus, steam power plants, electrical work, structural steel and ornamental iron work, and tele-data, fire alarm, or security systems. Subcontractors who furnish non-specialty trade work, or subcontractors who furnish work to named prime subcontractors, shall not be named in the bid documents. The bill also provides that if a contracting entity requires the naming of an additional subcontractor at the time of bid, that subcontractor's scope of work must exceed 35% of the total contract value for the branch of work. The bill does not apply to State government contracts.

This bill would apply to State colleges, county colleges, and other institutions.

COMMITTEE AMENDMENT

The committee amendment to the bill provides that in the preparation of plans and specifications for the construction, alteration, or repair of any public building by any contracting unit, when the entire cost of the work will exceed the bid threshold, the architect, engineer or other person preparing the plans and specifications may prepare separate plans and specifications for tele-data, fire alarms, and security systems.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2741

STATE OF NEW JERSEY

DATED: JUNE 7, 2012

The Senate Community and Urban Affairs Committee reports favorably Assembly Bill No. 2741 (1R).

This bill provides, or otherwise clarifies, that when a local unit requests bids for the erection or construction of a building or project, the bid documents need only set forth the name or names of all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting work, refrigeration, steam and hot water heating, and ventilating apparatus, steam power plants, electrical work including tele-data, fire alarm, or security systems, and structural steel and ornamental iron work, when the local unit requires a single bid from a general contractor for all of the work, goods, and services required to complete the building or project. If the local unit requires separate bids for each branch of work, contractors for each of these branches will not be required to name subcontractors. Subcontractors who furnish non-specialty trade work, or subcontractors who furnish work to named prime subcontractors, shall not be named in the bid documents.

The bill also provides that if a contracting entity requires the naming of an additional subcontractor at the time of bid, that subcontractor's scope of work must exceed 35% of the total contract value for the branch of work. The bill does not apply to State government contracts.

This bill would apply to State colleges, county colleges, and other institutions.

This bill is identical to Senate Bill No. 318, as amended by the committee and released favorably this day.

SENATE, No. 318

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator JIM WHELAN

District 2 (Atlantic)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Provides that subcontractors who furnish non-specialty trade work shall not be named in local public bid documents.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning local public bid documents and amending
2 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. N.J.S.18A:18A-18 is amended to read as follows:

8 18A:18A-18. a. In the preparation of plans and specifications for
9 the construction, alteration or repair of any building by a board of
10 education, when the entire cost of the work will exceed the bid
11 threshold, separate plans and specifications may be prepared for
12 each of the following branches of work in the following categories,
13 and all work kindred thereto to be performed or furnished in
14 connection therewith:

15 (1) The plumbing and gas fitting work;

16 (2) The refrigeration, heating and ventilating systems and
17 equipment;

18 (3) The electrical work, including any electrical power plant;

19 (4) The structural steel and ornamental iron work;

20 (5) General construction, which shall include all other work
21 required for the completion of the project.

22 b. **[The]** With regard to the branch work categories in
23 subsection a. of this section, the board of education or its
24 purchasing agent shall advertise for and receive, in the manner
25 provided by law, (1) separate bids for each of the branches of work
26 specified in subsection a. of this section, or (2) single bids by
27 general contractors for all the work, goods and services required to
28 complete the public building to be included in a single overall
29 contract, or (3) both. In the case of separate bids under paragraph
30 (1) or (3) of this subsection, contractors for categories (1) through
31 (4) of subsection a. of this section shall not be required to name
32 subcontractors in their bid. In the case of a single bid under
33 paragraph (2) or (3) of this subsection, there will be set forth in the
34 bid the name or names of all subcontractors to whom the bidder will
35 subcontract the furnishing of plumbing and gas fitting, and all
36 kindred work, and of the heating and ventilating systems and
37 equipment, and electrical work, structural steel and ornamental iron
38 work, each of which subcontractors shall be qualified in accordance
39 with N.J.S.18A:18A-1 et seq. for categories (1) through (4) of
40 subsection a. of this section. Subcontractors who furnish general
41 construction work pursuant to category (5) of subsection a. of this
42 section or subcontractors who furnish work to named subcontractors
43 pursuant to category (1) through (4) of subsection a. of this section
44 shall not be named in the bid. Notwithstanding the forgoing
45 provisions of this subsection, a contracting unit may choose to

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 require in its bid specification that a subcontractor shall be named
2 in a bid when, in the case of paragraph (1) of subsection b., separate
3 bids for each category, the work of that subcontractor exceeds 35
4 percent of the contracting unit's estimated amount of value of the
5 work, which shall be set forth in the bid specification. The school
6 district shall require evidence of performance security to be
7 submitted simultaneously with the list of the subcontractors.
8 Evidence of performance security may be supplied by the bidder on
9 behalf of himself and any or all subcontractors, or by each
10 respective subcontractor, or by any combination thereof which
11 results in evidence of performance security equaling, but in no
12 event exceeding, the total amount bid.

13 c. Contracts shall be awarded to the lowest responsible bidder
14 in each branch of work in the case of separate bids and to the single
15 lowest responsible bidder in the case of single bids. In the event
16 that a contract is advertised in accordance with paragraph (3) of
17 subsection b. of this section, the contract shall be awarded in the
18 following manner: If the sum total of the amounts bid by the lowest
19 responsible bidder for each branch is less than the amount bid by
20 the lowest responsible bidder for all the work, goods and services,
21 the board of education shall award separate contracts for each of
22 such branches to the lowest responsible bidder therefor, but if the
23 sum total of the amount bid by the lowest responsible bidder for
24 each branch is not less than the amount bid by the lowest
25 responsible bidder for all the work, goods and services, the board of
26 education shall award a single overall contract to the lowest
27 responsible bidder for all of such work, goods and services. In
28 every case in which a contract is awarded under paragraph (2) or (3)
29 of subsection b. of this section, all payments required to be made
30 under such contract for work, goods and services supplied by a
31 subcontractor may, upon the certification of the contractor of the
32 amount due to the subcontractor, be paid directly to the
33 subcontractor. Payments to a subcontractor for work and materials
34 supplied in connection with the contract shall be made within 10
35 calendar days of the receipt of payment for that work or the delivery
36 of those materials by the subcontractor in accordance with the
37 provisions of P.L.1991, c.133 (C.2A:30A-1 et seq.), and any
38 regulations promulgated thereunder.

39 (cf: P.L.1999, c.440, s.65)

40

41 2. Section 2 of P.L.1992, c.61 (C.18A:64-76.1) is amended to
42 read as follows:

43 2. a. Whenever the entire cost for the construction, alteration
44 or repair of any building by a State college will exceed the amount
45 determined pursuant to subsection b. of section 3 of P.L.1986, c.43
46 (C.18A:64-54), the contracting agent shall advertise for and receive
47 in the manner provided by law:

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- 1 (1) separate bids for branches of work in the following
2 categories **[of work]**:
- 3 (a) the plumbing and gas fitting work;
4 (b) the refrigeration, heating and ventilating systems and
5 equipment;
6 (c) the electrical work, including any electrical power plants;
7 (d) the structural steel and ornamental iron work;
8 (e) general construction, which shall include all other work and
9 materials required for the completion of the project, or
10 (2) bids for all work and materials required to complete the
11 entire project if awarded as a single contract, or
12 (3) both (1) and (2) above.

13 In the case of separate bids under paragraph (1) or (3) of this
14 subsection, prime contractors for categories (a) through (d) shall not
15 be required to name subcontractors in their bid. In the case of a
16 single bid under paragraph (2) or (3), **[All]** all bids submitted shall
17 set forth the names and license numbers of all subcontractors to
18 whom the **[bidder]** general contractor will subcontract the work
19 described in the foregoing categories (a) through **[(e)] (d).**
20 Subcontractors who furnish non-specialty trade work pursuant to
21 category (e) in paragraph (1) of this subsection or subcontractors
22 who furnish work to named subcontractors pursuant to categories
23 (a) through (d) in paragraph (1) of this subsection shall not be
24 named in the bid. Notwithstanding the forgoing provisions of this
25 subsection, a State college may choose to require in its bid
26 specification that a subcontractor shall be named in a bid when, in
27 the case of paragraph (1), separate bids for each category, the work
28 of that subcontractor exceeds 35 percent of the State college's
29 estimated amount of value of the work, which shall be set forth in
30 the bid specification.

31 b. Contracts shall be awarded to the lowest responsible bidder
32 whose bid, conforming to the invitation for bids, will be the most
33 advantageous to the State college. Whenever two or more bids of
34 equal amounts are the lowest bids submitted by responsible parties,
35 the college may award the contract to any of the parties, as, in its
36 discretion, it may determine.
37 (cf: P.L.2005, c.369, s.13)

38
39 3. Section 25 of P.L.1982, c.189 (C.18A:64A-25.25) is
40 amended to read as follows:

41 25. a. In the preparation of plans and specifications for the
42 construction, alteration or repair of any building by a county
43 college, when the entire cost of the work and materials will exceed
44 \$25,000 or, commencing January 1, 2003, the amount determined
45 pursuant to subsection b. of section 3 of P.L.1982, c.189
46 (C.18A:64A-25.3), separate plans and specifications may be
47 prepared for each of the following branches of work in the

1 following categories, to include all work and materials related
2 thereto or to be performed or furnished in connection therewith:

- 3 (a) The plumbing and gas fitting work;
- 4 (b) The refrigeration, heating and ventilating systems and
5 equipment;
- 6 (c) The electrical work, including any electrical power plants;
- 7 (d) The structural steel and ornamental iron work;
- 8 (e) **[All]** General construction, which shall include all other
9 work and materials required for the completion of the project.

10 **[The]** b. With regard to the branch work categories in subsection
11 a. of this section, the contracting agent shall advertise for and
12 receive in the manner provided by law (1) separate bids for each of
13 the foregoing categories (a) through (e), or (2) single bids by
14 general contractors for all work and materials required to complete
15 the entire project, if awarded as a single contract, or (3) both. In the
16 case of separate bids under paragraph (1) or (3) of this subsection
17 for categories (a) through (d) of subsection a. of this section, prime
18 contractors shall not be required to name subcontractors in their bid.
19 In the case of a single bid under paragraph (2) or (3), all bids
20 submitted shall set forth the name or names of, and evidence of
21 performance security from, all subcontractors to whom the [bidder]
22 general contractor will subcontract the work described in the
23 foregoing categories (a) through [(e)] (d) of subsection a. of this
24 section. Subcontractors who furnish non-specialty trade work
25 pursuant to category (e) or subcontractors who furnish work to
26 named subcontractors pursuant to categories (a) through (d) shall
27 not be named in the bid. Notwithstanding the forgoing provisions
28 of this subsection, a county college may choose to require in its bid
29 specification that a subcontractor shall be named in a bid when, in
30 the case of paragraph (1) of subsection b. of this section, separate
31 bids for each category, the work of that subcontractor exceeds 35
32 percent of the county college's estimated amount of value of the
33 work, which shall be set forth in the bid specification.

34 c. Contracts shall be awarded to the lowest responsible bidder.
35 In the event that a contract is advertised in accordance with (3)
36 above, the contract shall be awarded in the following manner: if the
37 sum total of the amounts bid by the lowest responsible bidder for
38 each category (a) through (e) is less than the amount bid by the
39 lowest responsible bidder for all the work and materials, the county
40 college shall award separate contracts for each of such categories to
41 the lowest responsible bidder therefor, but if the sum total of the
42 amount bid by the lowest responsible bidder for each category is not
43 less than the amount bid by the lowest responsible bidder for all the
44 work and materials, the county college shall award a single contract
45 to the lowest responsible bidder for all of such work and materials.
46 In every case in which a contract is awarded under (2) above, all
47 payments required to be made under the contract for work and

1 materials supplied by a subcontractor shall, upon the certification of
2 the contractor of the amount due to the subcontractor, be paid
3 directly to the subcontractor.

4 (cf: P.L.2001, c.281, s.5)

5

6 4. N.J.S.18A:72A-5 is amended to read as follows:

7 18A:72A-5. The authority shall have power:

8 (a) To adopt bylaws for the regulation of its affairs and the
9 conduct of its business;

10 (b) To adopt and have an official common seal and alter the
11 same at pleasure;

12 (c) To maintain an office at such place or places within the State
13 as it may designate;

14 (d) To sue and be sued in its own name, and plead and be
15 impleaded;

16 (e) To borrow money and to issue bonds and notes and other
17 obligations of the authority and to provide for the rights of the
18 holders thereof as provided in this chapter;

19 (f) To acquire, lease as lessee, hold and dispose of real and
20 personal property or any interest therein, in the exercise of its
21 powers and the performance of its duties under this chapter;

22 (g) To acquire in the name of the authority by purchase or
23 otherwise, on such terms and conditions and in such manner as it
24 may deem proper, or by the exercise of the power of eminent
25 domain, any land or interest therein and other property which it may
26 determine is reasonably necessary for any project, including any
27 lands held by any county, municipality or other governmental
28 subdivision of the State; and to hold and use the same and to sell,
29 convey, lease or otherwise dispose of property so acquired, no
30 longer necessary for the authority's purposes;

31 (h) To receive and accept, from any federal or other public
32 agency or governmental entity, grants or loans for or in aid of the
33 acquisition or construction of any project, and to receive and accept
34 aid or contributions from any other source, of either money,
35 property, labor or other things of value, to be held, used and applied
36 only for the purposes for which such grants, loans and contributions
37 may be made;

38 (i) To prepare or cause to be prepared plans, specifications,
39 designs and estimates of costs for the construction and equipment of
40 projects for participating colleges under the provisions of this
41 chapter, and from time to time to modify such plans, specifications,
42 designs or estimates;

43 (j) By contract or contracts or by its own employees to
44 construct, acquire, reconstruct, rehabilitate and improve, and
45 furnish and equip, projects for participating colleges; however, in
46 any contract or contracts undertaken by the authority for the
47 construction, reconstruction, rehabilitation or improvement of any

1 public college project where the cost of such work will exceed
2 \$25,000, the contracting agent shall advertise for and receive in the
3 manner provided by law:

4 (1) separate bids for branches of work in the following
5 categories **[of work;]** :

6 (a) the plumbing and gas fitting work;

7 (b) the refrigeration, heating and ventilating systems and
8 equipment;

9 (c) the electrical work, including any electrical power plants;

10 (d) the structural steel and ornamental iron work;

11 (e) **[all]** general construction, which shall include all other
12 work and materials required for the completion of the project, or

13 (2) bids for all work and materials required to complete the
14 entire project if awarded as a single contract; or

15 (3) both (1) and (2) above.

16 In the case of separate bids pursuant to paragraph (1) or (3) of
17 this subsection, prime contractors shall not be required to name
18 subcontractors for categories (a) through (d) in their bid. In the
19 case of a single bid under paragraph (2) or (3), all bids submitted
20 shall set forth the names and license numbers of, and evidence of
21 performance security from, all subcontractors to whom the **[bidder]**
22 general contractor will subcontract the work described in the
23 foregoing categories **[(1)(a)]** (a) through **[(1)(e)]** (d) in paragraph
24 (1). Subcontractors who furnish non-specialty trade work pursuant
25 to category (e), or subcontractors who furnish work to named
26 subcontractors pursuant to categories (a) through (d), shall not be
27 named in the bid. Notwithstanding the forgoing provisions of this
28 subsection, an authority may choose to require in its bid
29 specification that a subcontractor shall be named in a bid when, in
30 the case of paragraph (1), separate bids for each category, the work
31 of that subcontractor exceeds 35 percent of the authority's
32 estimated amount of value of the work, which shall be set forth in
33 the bid specification.

34 Contracts shall be awarded to the lowest responsible bidder
35 whose bid, conforming to the invitation for bids, will be the most
36 advantageous to the authority;

37 (k) To determine the location and character of any project to be
38 undertaken pursuant to the provisions of this chapter, and to
39 construct, reconstruct, maintain, repair, operate, lease, as lessee or
40 lessor, and regulate the same; to enter into contracts for any or all
41 such purposes; to enter into contracts for the management and
42 operation of a project, and to designate a participating college as its
43 agent to determine the location and character of a project
44 undertaken by such participating college under the provisions of
45 this chapter and, as the agent of the authority, to construct,
46 reconstruct, maintain, repair, operate, lease, as lessee or lessor, and
47 regulate the same, and, as agent of the authority, to enter into

1 contracts for any and all such purposes including contracts for the
2 management and operation of such project;

3 (l) To establish rules and regulations for the use of a project or
4 any portion thereof and to designate a participating college as its
5 agent to establish rules and regulations for the use of a project
6 undertaken by such participating college;

7 (m) Generally to fix and revise from time to time and to charge
8 and collect rates, rents, fees and other charges for the use of and for
9 the services furnished or to be furnished by a project or any portion
10 thereof and to contract with holders of its bonds and with any other
11 person, party, association, corporation or other body, public or
12 private, in respect thereof;

13 (n) To enter into any and all agreements or contracts, execute
14 any and all instruments, and do and perform any and all acts or
15 things necessary, convenient or desirable for the purposes of the
16 authority or to carry out any power expressly given in this chapter;

17 (o) To invest any moneys held in reserve or sinking funds, or
18 any moneys not required for immediate use or disbursement, at the
19 discretion of the authority, in such obligations as are authorized by
20 law for the investment of trust funds in the custody of the State
21 Treasurer;

22 (p) To enter into any lease relating to higher education
23 equipment with a public or private institution of higher education
24 pursuant to the provisions of P.L.1993, c.136 (C.18A:72A-40 et
25 al.);

26 (q) To enter into loan agreements with any county, to hold
27 bonds or notes of the county evidencing those loans, and to issue
28 bonds or notes of the authority to finance county college capital
29 projects pursuant to the provisions of the "County College Capital
30 Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

31 (r) To issue bonds and notes and other obligations of the
32 authority under the direction of law for the purpose of providing
33 financial assistance for the installation of fire prevention and safety
34 systems in dormitories.

35 (cf: P.L.2000, c.56, s.11)

36

37 5. Section 16 of P.L.1971, c.198 (C.40A:11-16) is amended to
38 read as follows:

39 16. a. (1) In the preparation of plans and specifications for the
40 construction, alteration or repair of any public building by any
41 contracting unit, when the entire cost of the work will exceed the
42 bid threshold, the architect, engineer or other person preparing the
43 plans and specifications may prepare separate plans and
44 specifications for branches of work in the following categories:

45 (1) The plumbing and gas fitting and all kindred work;

46 (2) Steam power plants, steam and hot water heating and
47 ventilating and refrigeration apparatus and all kindred work;

- 1 (3) Electrical work;
2 (4) Structural steel and ornamental iron work; and
3 (5) **【All】** General construction, which shall include all other
4 work required for the completion of the project.

5 **【The】** (2) With regard to the branch work categories in
6 paragraph (1) of this subsection, the contracting agent shall
7 advertise for and receive, in the manner provided by law, either (a)
8 separate bids for each of said **【branches of work】** categories, or (b)
9 single bids by general contractors for all the work, goods and
10 services required to complete the public building to be included in a
11 single overall contract, or (c) both. In the case of separate bids
12 under (a) or (c) of this paragraph, contractors for categories (1)
13 through (4) shall not be required to name subcontractors in their
14 bid. In the case of a single bid under (b) or (c), there shall be set
15 forth in the bid the name or names of all subcontractors to whom
16 the **【bidder】** general contractor will subcontract **【the furnishing of**
17 plumbing and gas fitting, and all kindred work, and of the steam
18 and hot water heating and ventilating apparatus, steam power plants
19 and kindred work, and electrical work, structural steel and
20 ornamental iron work, each of which subcontractors shall be
21 qualified in accordance with P.L.1971, c.198 (C.40A:11-1 et seq.)】
22 for categories (1) through (4). Subcontractors who furnish general
23 construction work pursuant to category (5), or subcontractors who
24 furnish work to named subcontractors pursuant to categories (1)
25 through (4) shall not be named in the bid. Notwithstanding the
26 forgoing provisions of this paragraph, a contracting unit may
27 choose to require in its bid specification that a subcontractor shall
28 be named in a bid when, in the case of (a) of this paragraph,
29 separate bids for each category, the work of that subcontractor
30 exceeds 35 percent of the contracting unit's estimated amount of
31 value of the work, which shall be set forth in the bid specification.

32 (3) The contracting unit shall require evidence of performance
33 security to be submitted simultaneously with the **【list of the**
34 **subcontractors】** bid. Evidence of performance security may be
35 supplied by the bidder on behalf of himself and any or all
36 subcontractors, or by each respective subcontractor, or by any
37 combination thereof which results in evidence of performance
38 security equaling, but in no event exceeding, the total amount bid.

39 b. Whenever a bid sets forth more than one subcontractor for
40 any of the **【specialty trade】** categories (1) through (4) **【specified】**
41 in paragraph (1) of subsection a. of this section, the bidder shall
42 submit to the contracting unit a certificate signed by the bidder
43 listing each subcontractor named in the bid for that category. The
44 certificate shall set forth the scope of work, goods and services for
45 which the subcontractor has submitted a price quote and which the
46 bidder has agreed to award to each subcontractor should the bidder
47 be awarded the contract. The certificate shall be submitted to the

1 contracting unit simultaneously with the list of the subcontractors.
2 The certificate may take the form of a single certificate listing all
3 subcontractors or, alternatively, a separate certificate may be
4 submitted for each subcontractor. If a bidder does not submit a
5 certificate or certificates to the contracting unit, the contracting unit
6 shall award the contract to the next lowest responsible bidder.

7 c. Contracts shall be awarded to the lowest responsible bidder.
8 In the event that a contract is advertised for both separate bids for
9 each branch of work and for bids for all work, goods, and services,
10 said contract shall be awarded in the following manner: If the sum
11 total of the amounts bid by the lowest responsible bidder for each
12 branch is less than the amount bid by the lowest responsible bidder
13 for all the work, goods and services, the contracting unit shall
14 award separate contracts for each of such branches to the lowest
15 responsible bidder therefor, but if the sum total of the amounts bid
16 by the lowest responsible bidder for each branch is not less than the
17 amount bid by the lowest responsible bidder for all the work, goods
18 and services, the contracting unit shall award a single overall
19 contract to the lowest responsible bidder for all of such work, goods
20 and services. In every case in which a contract is awarded for a
21 single overall contract, all payments required to be made under such
22 contract for work, goods and services supplied by a subcontractor
23 shall, upon the certification of the contractor of the amount due to
24 the subcontractor, be paid directly to the subcontractor.

25 d. Any bid specification prepared pursuant to this section that
26 includes the use of 1,000 or more tons of hot mix asphalt, shall
27 include a pay item for any asphalt price adjustment reflecting
28 changes in the cost of asphalt cement. Any bid specification
29 prepared pursuant to this section that includes the use of less than
30 1,000 tons of hot mix asphalt, shall include a pay item for an
31 asphalt price adjustment for any quantity of hot mix asphalt
32 exceeding 1,000 tons that may be used in the work in the event that
33 performance of the work, including change orders, requires more
34 than 1,000 tons of hot mix asphalt.

35 The asphalt price adjustment shall be calculated in accordance
36 with the formula and relevant instructions published in the most
37 recent edition of the New Jersey Department of Transportation
38 Standard Specifications for Road and Bridge Construction as
39 revised by the "Standard Inputs" periodically issued by the
40 department. All invoices for payment shall be accompanied by the
41 calculation of any asphalt price adjustment and a showing of the
42 current month's Asphalt Price Index, the Basic Asphalt Price Index.

43 e. (1) Every bid specification prepared pursuant to this section
44 may be eligible for a fuel price adjustment. Fuel that is eligible for
45 a fuel price adjustment shall be the sum of the quantities of the
46 eligible pay items in the contract times the fuel usage factors as

1 determined by the Department of Transportation. The types of fuel
2 furnished shall be at the option of the contractor.

3 (2) The fuel requirement for items not determined by the
4 Department of Transportation to be eligible, and for pay items in
5 the bid specifications calling for less than 500 gallons of fuel, shall
6 not be eligible for a fuel price adjustment. If more than one pay
7 item has the same nomenclature but with different thicknesses,
8 depths, or types, each individual pay item must require 500 gallons
9 or more of fuel to be eligible for a fuel price adjustment. If more
10 than one pay item has the exact same nomenclature, similar pay
11 items shall be combined and this combination must require 500
12 gallons ore more of fuel to be eligible for the fuel price adjustment.

13 (3) Fuel price adjustments shall not be made in those months for
14 which the monthly fuel price index has changed by less than five
15 percent from the basic fuel price.

16 f. As used in subsections d. and e. of this section:

17 "Asphalt Price Index" means the Asphalt Price Index as
18 determined and published by the New Jersey Department of
19 Transportation.

20 "Basic Asphalt Price Index" means the Basic Asphalt Price Index
21 as published by the New Jersey Department of Transportation in its
22 "Standard Specifications for Road and Bridge Construction," as
23 revised by the "Standard Inputs" periodically issued by the New
24 Jersey Department of Transportation.

25 "Fuel Price Index" means the Fuel Price Index as determined and
26 published by the New Jersey Department of Transportation.

27 "Pay Item" means a specifically described item of work for
28 which the bidder provides a per unit or lump sum price in a bid
29 specification as determined and published by the New Jersey
30 Department of Transportation.

31 (cf: P.L.2009, c.187, s.1)

32

33 6. This act shall take effect on the first day of the third month
34 next following enactment.

35

36

37

STATEMENT

38

39 This bill provides, or otherwise clarifies, that when a local unit
40 requests bids for the erection or construction of a building or
41 project, the bid documents need only set forth the name or names of
42 all subcontractors to whom the bidder will subcontract the
43 furnishing of plumbing and gas fitting work, refrigeration, steam
44 and hot water heating, and ventilating apparatus, steam power
45 plants, electrical work, and structural steel and ornamental iron
46 work. Subcontractors who furnish non-specialty trade work, or
47 subcontractors who furnish work to named prime subcontractors,

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1 shall not be named in the bid documents. The bill also provides that
2 if a contracting entity requires the naming of an additional
3 subcontractor at the time of bid, that subcontractor's scope of work
4 must exceed 35% of the total contract value for the branch of work.
5 The bill does not apply to State government contracts.
6 This bill would apply to State colleges, county colleges, and
7 other institutions.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 318

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 7, 2012

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 318.

As amended by the committee, this bill provides, or otherwise clarifies, that when a local unit requests bids for the erection or construction of a building or project, the bid documents need only set forth the name or names of all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting work, refrigeration, steam and hot water heating, and ventilating apparatus, steam power plants, electrical work including tele-data, fire alarm, or security systems, and structural steel and ornamental iron work, when the local unit requires a single bid from a general contractor for all of the work, goods, and services required to complete the building or project. If the local unit requires separate bids for each branch of work, contractors for each of these branches will not be required to name subcontractors. Subcontractors who furnish non-specialty trade work, or subcontractors who furnish work to named prime subcontractors, shall not be named in the bid documents.

The bill also provides that if a contracting entity requires the naming of an additional subcontractor at the time of bid, that subcontractor's scope of work must exceed 35% of the total contract value for the branch of work. The bill does not apply to State government contracts.

This bill would apply to State colleges, county colleges, and other institutions.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that in the preparation of plans and specifications for the construction, alteration, or repair of any public building by any contracting unit, when the entire cost of the work will exceed the bid threshold, the architect, engineer or other person preparing the plans and specifications may prepare separate plans and specifications for tele-data, fire alarms, and security systems. These amendments make the bill identical to Assembly Bill No. 2741 (1R), which was also reported favorably by the committee on this date.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.