

27:25-11

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2000 **CHAPTER:** 128
NJSA: 27:25-11 (New Jersey Transit—bidding)
BILL NO: A1422 (Substituted for S1269)
SPONSOR(S): DeCroce

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Transportation

SENATE: Transportation

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: ASSEMBLY: May 25, 2000

SENATE: June 29, 2000

DATE OF APPROVAL: September 21, 2000

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (2nd reprint enacted)
(Amendments during passage denoted by superscript numbers)

A1422

SPONSORS STATEMENT: (Begins on page 4 of original bill) Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

S1269

SPONSORS STATEMENT: (Begins on page 4 of original bill) Yes

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes
Identical to Senate Statement for A1422

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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ASSEMBLY, No. 1422

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman ALEX DECROCE

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Requires NJT to award contracts for construction or improvement of capital facilities to lowest responsible bidder.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A1422 DECROCE

2

1 AN ACT concerning the award of certain contracts by the New Jersey
2 Transit Corporation and amending P.L.1979, c.150.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 11 of P.L.1979, c.150 (C.27:25-11) is amended to read
8 as follows:

9 11. a. All purchases, contracts or agreements pursuant to this act
10 shall be made or awarded directly by the corporation, except as
11 otherwise provided in this act, only after public advertisement for bids
12 therefor, in the manner provided in this act, notwithstanding the
13 provisions to the contrary of P.L.1948, c.92 (C.52:18A-1 et seq.) and
14 chapters 25, 32, 33, 34 and 35 of Title 52 of the Revised Statutes.

15 b. Whenever advertising is required: (1) specifications and
16 invitations for bids shall permit such full and free competition as is
17 consistent with the procurement of supplies and services necessary to
18 meet the requirements of the corporation; (2) the advertisement for
19 bids shall be in such newspaper or newspapers selected by the
20 corporation as will best give notice thereof to bidders and shall be
21 sufficiently in advance of the purchase or contract to promote
22 competitive bidding; (3) the advertisement shall designate the time and
23 place when and where sealed proposals shall be received and publicly
24 opened and read, the amount of the cash, certified check, cashier's
25 check or bank check, if any, which shall accompany each bid, and such
26 other terms as the corporation may deem proper.

27 c. The corporation may reject any or all bids not in accord with
28 the advertisement of specifications, or may reject any or all bids if the
29 price of the work materials is excessively above the estimate cost or
30 when the corporation shall determine that it is in the public interest to
31 do so. The corporation shall prepare a list of the bids, including any
32 rejected and the cause therefor. The corporation may accept bids
33 containing minor informalities. Awards shall be made by the
34 corporation with reasonable promptness by written notice to:

35 (1) the responsible bidder whose bid, conforming to the invitation
36 for bids, will be the most advantageous to the State, price and other
37 factors considered, for contracts other than contracts for the
38 construction or improvement of capital facilities; or

39 (2) the lowest responsible bidder for contracts for the construction
40 or improvement of capital facilities. The provisions of this paragraph
41 shall not apply to the procurement process for design-build projects or
42 design-build, maintain and operate projects. Those projects shall be
43 bid and contracts awarded in accordance with applicable regulations

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

Matter underlined thus is new matter.

1 promulgated by the corporation .

2 d. A bid bond in an amount, not to exceed 50% of the bid, to be
3 determined by the corporation with such sureties as shall be approved
4 by the corporation in favor of the State of New Jersey, or a deposit
5 consisting of a cashier's check, certified check or letter of credit in an
6 amount set forth by the corporation, shall accompany each bid and
7 shall be held as security for the faithful performance of the contractor
8 in that, if awarded the contract, the bidder will deliver the contract
9 within 10 working days after the notice, of award, properly executed
10 and secured by satisfactory bonds in accordance with the provisions of
11 N.J.S.2A:44-143 through N.J.S.2A:44-147 and specifications for the
12 project. The corporation may require in addition to the bid bond or
13 deposit such additional evidence of the ability of a contractor to
14 perform the work required by the contract as it may deem necessary
15 and advisable. All bid bonds or deposits which have been delivered
16 with the bids, except those of the two lowest responsible bidders, shall
17 be returned within 30 working days after such bids are received.

18 e. If the bidder fails to provide a satisfactory bid bond or deposit
19 as provided in subsection d. of this section, the bid shall be rejected.

20 f. The corporation shall determine the terms and conditions of the
21 various types of agreements or contracts, including provisions for
22 adequate security, the time and amount or percentage of each payment
23 thereon and the amount to be withheld pending completion of the
24 contract, and it shall issue and publish rules and regulations concerning
25 such terms and conditions, standard contract forms and such other
26 rules and regulations concerning purchasing or procurement, not
27 inconsistent with any applicable law, as it may deem advisable to
28 promote competition and to protect the public interest.

29 g. Any purchase, contract or agreement pursuant to subsection a.
30 hereof may be made, negotiated or awarded by the corporation
31 without advertising under the following circumstances:

32 (1) When the aggregate amount involved does not exceed the
33 amount determined pursuant to section 2 of P.L.1954, c.48
34 (C.52:34-7); or

35 (2) In all other cases when the corporation seeks:

36 (a) To acquire public or private entities engaged in the provision
37 of public transportation service, used public transportation equipment
38 or existing public transportation facilities or rights of way; or

39 (b) To acquire subject matter which is that described in section 4
40 of P.L.1954, c.48 (C.52:34-9); or

41 (c) To make a purchase or award or make a contract or agreement
42 under the circumstances described in section 5 of P.L.1954, c.48
43 (C.52:34-10); or

44 (d) To contract pursuant to section 6 of P.L.1979, c.150
45 (C.27:25-6); or

46 (e) To acquire or overhaul motorbuses, light rail vehicles, rail cars,

1 locomotives, signal systems or fare collection systems.

2 h. The corporation shall require that all persons proposing to
3 submit bids on improvements to capital facilities and equipment shall
4 first be classified by the corporation as to the character or amount or
5 both of the work on which they shall be qualified to submit bids. Bids
6 shall be accepted only from persons qualified in accordance with such
7 classification.

8 (cf: P.L.1996, c.104, s.1).

9

10 2. This act shall take effect on the first day of the fourth month
11 following enactment.

12

13

14

STATEMENT

15

16 This bill would require the New Jersey Transit Corporation to
17 award a contract for the construction or improvement of capital
18 facilities for which it has advertised bids to the lowest responsible
19 bidder. Current law provides that all contracts for which the
20 corporation has advertised bids be awarded to the bidder whose bid is
21 most advantageous to the State, price and other factors considered.

ASSEMBLY TRANSPORTATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1422

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 28, 2000

The Assembly Transportation Committee reports favorably Assembly Bill No. 1422 with committee amendments.

This amended bill would require the New Jersey Transit Corporation to award a contract for the construction or improvement of capital facilities for which it has advertised bids to the lowest responsible bidder, except for design-build, and design-build, maintain, operate projects. The provisions of the bill would not limit the corporation's right to extend, add or resume suspended work on any project. Current law provides that all contracts for which the corporation has advertised bids be awarded to the bidder whose bid is most advantageous to the State, price and other factors considered.

The committee adopted amendments to ensure that the provisions of the bill do not limit the corporation's right to extend, add or resume suspended work on any project.

Technical review was performed on this pre-filed bill, as required under Joint Rule 18A of the Senate and General Assembly.

[First Reprint]

ASSEMBLY, No. 1422

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman ALEX DECROCE

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

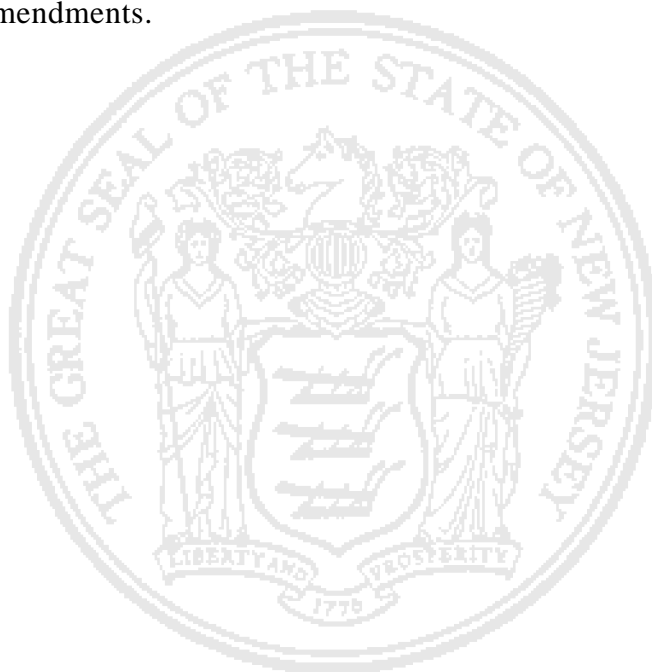
Assemblyman Thompson

SYNOPSIS

Requires NJT to award contracts for construction or improvement of capital facilities to lowest responsible bidder in certain circumstances.

CURRENT VERSION OF TEXT

As reported by the Assembly Transportation Committee on February 28, 2000, with amendments.



(Sponsorship Updated As Of: 3/17/2000)

1 AN ACT concerning the award of certain contracts by the New Jersey
2 Transit Corporation and amending P.L.1979, c.150.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 11 of P.L.1979, c.150 (C.27:25-11) is amended to read
8 as follows:

9 11. a. All purchases, contracts or agreements pursuant to this act
10 shall be made or awarded directly by the corporation, except as
11 otherwise provided in this act, only after public advertisement for bids
12 therefor, in the manner provided in this act, notwithstanding the
13 provisions to the contrary of P.L.1948, c.92 (C.52:18A-1 et seq.) and
14 chapters 25, 32, 33, 34 and 35 of Title 52 of the Revised Statutes.

15 b. Whenever advertising is required: (1) specifications and
16 invitations for bids shall permit such full and free competition as is
17 consistent with the procurement of supplies and services necessary to
18 meet the requirements of the corporation; (2) the advertisement for
19 bids shall be in such newspaper or newspapers selected by the
20 corporation as will best give notice thereof to bidders and shall be
21 sufficiently in advance of the purchase or contract to promote
22 competitive bidding; (3) the advertisement shall designate the time and
23 place when and where sealed proposals shall be received and publicly
24 opened and read, the amount of the cash, certified check, cashier's
25 check or bank check, if any, which shall accompany each bid, and such
26 other terms as the corporation may deem proper.

27 c. The corporation may reject any or all bids not in accord with
28 the advertisement of specifications, or may reject any or all bids if the
29 price of the work materials is excessively above the estimate cost or
30 when the corporation shall determine that it is in the public interest to
31 do so. The corporation shall prepare a list of the bids, including any
32 rejected and the cause therefor. The corporation may accept bids
33 containing minor informalities. Awards shall be made by the
34 corporation with reasonable promptness by written notice to:

35 (1) the responsible bidder whose bid, conforming to the invitation
36 for bids, will be the most advantageous to the State, price and other
37 factors considered, for contracts other than contracts for the
38 construction or improvement of capital facilities; or

39 (2) the lowest responsible bidder for contracts for the construction
40 or improvement of capital facilities. The ¹provisions of this paragraph
41 shall not limit the corporation's right to extend, add or resume
42 suspended work on any project. Nor shall the ¹ provisions of this

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ATR committee amendments adopted February 28, 2000.

1 paragraph 1 [shall not] 1 apply to the procurement process for design-
2 build projects or design-build, maintain and operate projects. Those
3 projects shall be bid and contracts awarded in accordance with
4 applicable regulations promulgated by the corporation .

5 d. A bid bond in an amount, not to exceed 50% of the bid, to be
6 determined by the corporation with such sureties as shall be approved
7 by the corporation in favor of the State of New Jersey, or a deposit
8 consisting of a cashier's check, certified check or letter of credit in an
9 amount set forth by the corporation, shall accompany each bid and
10 shall be held as security for the faithful performance of the contractor
11 in that, if awarded the contract, the bidder will deliver the contract
12 within 10 working days after the notice, of award, properly executed
13 and secured by satisfactory bonds in accordance with the provisions of
14 N.J.S.2A:44-143 through N.J.S.2A:44-147 and specifications for the
15 project. The corporation may require in addition to the bid bond or
16 deposit such additional evidence of the ability of a contractor to
17 perform the work required by the contract as it may deem necessary
18 and advisable. All bid bonds or deposits which have been delivered
19 with the bids, except those of the two lowest responsible bidders, shall
20 be returned within 30 working days after such bids are received.

21 e. If the bidder fails to provide a satisfactory bid bond or deposit
22 as provided in subsection d. of this section, the bid shall be rejected.

23 f. The corporation shall determine the terms and conditions of the
24 various types of agreements or contracts, including provisions for
25 adequate security, the time and amount or percentage of each payment
26 thereon and the amount to be withheld pending completion of the
27 contract, and it shall issue and publish rules and regulations concerning
28 such terms and conditions, standard contract forms and such other
29 rules and regulations concerning purchasing or procurement, not
30 inconsistent with any applicable law, as it may deem advisable to
31 promote competition and to protect the public interest.

32 g. Any purchase, contract or agreement pursuant to subsection a.
33 hereof may be made, negotiated or awarded by the corporation
34 without advertising under the following circumstances:

35 (1) When the aggregate amount involved does not exceed the
36 amount determined pursuant to section 2 of P.L.1954, c.48
37 (C.52:34-7); or

38 (2) In all other cases when the corporation seeks:

39 (a) To acquire public or private entities engaged in the provision
40 of public transportation service, used public transportation equipment
41 or existing public transportation facilities or rights of way; or

42 (b) To acquire subject matter which is that described in section 4
43 of P.L.1954, c.48 (C.52:34-9); or

44 (c) To make a purchase or award or make a contract or agreement
45 under the circumstances described in section 5 of P.L.1954, c.48
46 (C.52:34-10); or

1 (d) To contract pursuant to section 6 of P.L.1979, c.150
2 (C.27:25-6); or

3 (e) To acquire or overhaul motorbuses, light rail vehicles, rail cars,
4 locomotives, signal systems or fare collection systems.

5 h. The corporation shall require that all persons proposing to
6 submit bids on improvements to capital facilities and equipment shall
7 first be classified by the corporation as to the character or amount or
8 both of the work on which they shall be qualified to submit bids. Bids
9 shall be accepted only from persons qualified in accordance with such
10 classification.

11 (cf: P.L.1996, c.104, s.1).

12

13 2. This act shall take effect on the first day of the fourth month
14 following enactment.

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1422

with Assembly Floor Amendments
(Proposed By Assemblyman DECROCE)

ADOPTED: MARCH 27, 2000

These floor amendments would exempt the New Jersey Transit Corporation's minority and women's enterprise program, equal employment opportunity program and affirmative action programs from the requirement that awards for contracts for the construction or improvement of capital facilities go to the lowest responsible bidder.

[Second Reprint]

ASSEMBLY, No. 1422

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman ALEX DECROCE

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

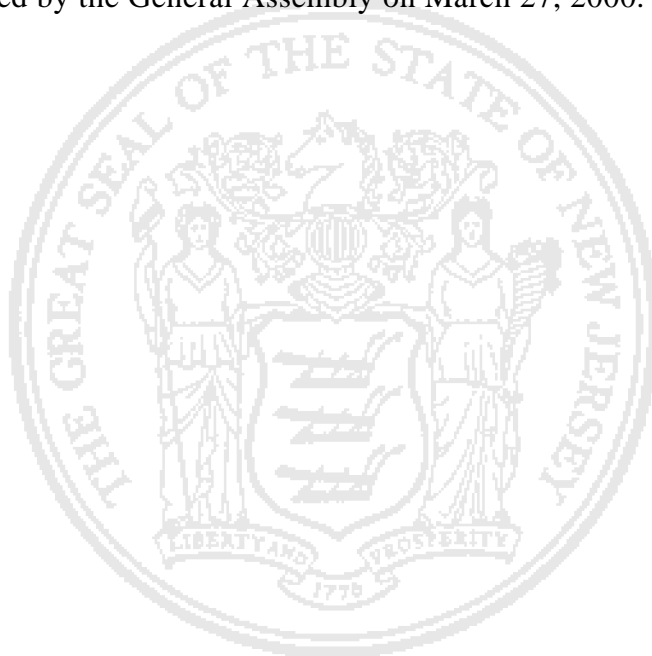
Assemblyman Thompson and Senator Ciesla

SYNOPSIS

Requires NJT to award contracts for construction or improvement of capital facilities to lowest responsible bidder in certain circumstances.

CURRENT VERSION OF TEXT

As amended by the General Assembly on March 27, 2000.



(Sponsorship Updated As Of: 6/30/2000)

1 AN ACT concerning the award of certain contracts by the New Jersey
2 Transit Corporation and amending P.L.1979, c.150.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 11 of P.L.1979, c.150 (C.27:25-11) is amended to read
8 as follows:

9 11. a. All purchases, contracts or agreements pursuant to this act
10 shall be made or awarded directly by the corporation, except as
11 otherwise provided in this act, only after public advertisement for bids
12 therefor, in the manner provided in this act, notwithstanding the
13 provisions to the contrary of P.L.1948, c.92 (C.52:18A-1 et seq.) and
14 chapters 25, 32, 33, 34 and 35 of Title 52 of the Revised Statutes.

15 b. Whenever advertising is required: (1) specifications and
16 invitations for bids shall permit such full and free competition as is
17 consistent with the procurement of supplies and services necessary to
18 meet the requirements of the corporation; (2) the advertisement for
19 bids shall be in such newspaper or newspapers selected by the
20 corporation as will best give notice thereof to bidders and shall be
21 sufficiently in advance of the purchase or contract to promote
22 competitive bidding; (3) the advertisement shall designate the time and
23 place when and where sealed proposals shall be received and publicly
24 opened and read, the amount of the cash, certified check, cashier's
25 check or bank check, if any, which shall accompany each bid, and such
26 other terms as the corporation may deem proper.

27 c. The corporation may reject any or all bids not in accord with
28 the advertisement of specifications, or may reject any or all bids if the
29 price of the work materials is excessively above the estimate cost or
30 when the corporation shall determine that it is in the public interest to
31 do so. The corporation shall prepare a list of the bids, including any
32 rejected and the cause therefor. The corporation may accept bids
33 containing minor informalities. Awards shall be made by the
34 corporation with reasonable promptness by written notice to:

35 (1) the responsible bidder whose bid, conforming to the invitation
36 for bids, will be the most advantageous to the State, price and other
37 factors considered, for contracts other than contracts for the
38 construction or improvement of capital facilities; or

39 (2) the lowest responsible bidder for contracts for the construction
40 or improvement of capital facilities. The ¹provisions of this paragraph
41 shall not limit the corporation's right to extend, add or resume

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ATR committee amendments adopted February 28, 2000.

² Assembly floor amendments adopted March 27, 2000.

1 suspended work on any project. Nor shall the¹ provisions of this
2 paragraph ¹[shall not] ¹apply to the procurement process for design-
3 build projects or design-build, maintain and operate projects. Those
4 projects shall be bid and contracts awarded in accordance with
5 applicable regulations promulgated by the corporation . ²Nor shall the
6 provisions of this paragraph affect the corporation's minority and
7 women's business enterprise program, equal employment opportunity
8 program or any affirmative action program.²

9 d. A bid bond in an amount, not to exceed 50% of the bid, to be
10 determined by the corporation with such sureties as shall be approved
11 by the corporation in favor of the State of New Jersey, or a deposit
12 consisting of a cashier's check, certified check or letter of credit in an
13 amount set forth by the corporation, shall accompany each bid and
14 shall be held as security for the faithful performance of the contractor
15 in that, if awarded the contract, the bidder will deliver the contract
16 within 10 working days after the notice, of award, properly executed
17 and secured by satisfactory bonds in accordance with the provisions of
18 N.J.S.2A:44-143 through N.J.S.2A:44-147 and specifications for the
19 project. The corporation may require in addition to the bid bond or
20 deposit such additional evidence of the ability of a contractor to
21 perform the work required by the contract as it may deem necessary
22 and advisable. All bid bonds or deposits which have been delivered
23 with the bids, except those of the two lowest responsible bidders, shall
24 be returned within 30 working days after such bids are received.

25 e. If the bidder fails to provide a satisfactory bid bond or deposit
26 as provided in subsection d. of this section, the bid shall be rejected.

27 f. The corporation shall determine the terms and conditions of the
28 various types of agreements or contracts, including provisions for
29 adequate security, the time and amount or percentage of each payment
30 thereon and the amount to be withheld pending completion of the
31 contract, and it shall issue and publish rules and regulations concerning
32 such terms and conditions, standard contract forms and such other
33 rules and regulations concerning purchasing or procurement, not
34 inconsistent with any applicable law, as it may deem advisable to
35 promote competition and to protect the public interest.

36 g. Any purchase, contract or agreement pursuant to subsection a.
37 hereof may be made, negotiated or awarded by the corporation
38 without advertising under the following circumstances:

39 (1) When the aggregate amount involved does not exceed the
40 amount determined pursuant to section 2 of P.L.1954, c.48
41 (C.52:34-7); or

42 (2) In all other cases when the corporation seeks:

43 (a) To acquire public or private entities engaged in the provision
44 of public transportation service, used public transportation equipment
45 or existing public transportation facilities or rights of way; or

- 1 (b) To acquire subject matter which is that described in section 4
2 of P.L.1954, c.48 (C.52:34-9); or
- 3 (c) To make a purchase or award or make a contract or agreement
4 under the circumstances described in section 5 of P.L.1954, c.48
5 (C.52:34-10); or
- 6 (d) To contract pursuant to section 6 of P.L.1979, c.150
7 (C.27:25-6); or
- 8 (e) To acquire or overhaul motorbuses, light rail vehicles, rail cars,
9 locomotives, signal systems or fare collection systems.
- 10 h. The corporation shall require that all persons proposing to
11 submit bids on improvements to capital facilities and equipment shall
12 first be classified by the corporation as to the character or amount or
13 both of the work on which they shall be qualified to submit bids. Bids
14 shall be accepted only from persons qualified in accordance with such
15 classification.
16 (cf: P.L.1996, c.104, s.1).
- 17
- 18 2. This act shall take effect on the first day of the fourth month
19 following enactment.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 1422

STATE OF NEW JERSEY

DATED: JUNE 15, 2000

The Senate Transportation Committee reports favorably Assembly Bill No. 1422 (2R).

This bill would require the New Jersey Transit Corporation to award a contract for the construction or improvement of capital facilities for which it has advertised bids to the lowest responsible bidder, except for design-build, and design-build, maintain, operate projects. The New Jersey Transit Corporation's minority and women's enterprise program, equal employment opportunity program and affirmative action programs would be exempt from the requirement that awards for contracts for the construction or improvement of capital facilities go to the lowest responsible bidder. The provisions of the bill would not limit the corporation's right to extend, add or resume suspended work on any project. Current law provides that all contracts for which the corporation has advertised bids be awarded to the bidder whose bid is most advantageous to the State, price and other factors considered.

As reported by the committee, this bill is identical to S-1269, reported by the committee on the same date.

P.L. 2000, CHAPTER 128, *approved September 21, 2000*
Assembly, No. 1422 (*Second Reprint*)

1 **AN ACT** concerning the award of certain contracts by the New Jersey
2 Transit Corporation and amending P.L.1979, c.150.

3

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

6

7 1. Section 11 of P.L.1979, c.150 (C.27:25-11) is amended to read
8 as follows:

9 11. a. All purchases, contracts or agreements pursuant to this act
10 shall be made or awarded directly by the corporation, except as
11 otherwise provided in this act, only after public advertisement for bids
12 therefor, in the manner provided in this act, notwithstanding the
13 provisions to the contrary of P.L.1948, c.92 (C.52:18A-1 et seq.) and
14 chapters 25, 32, 33, 34 and 35 of Title 52 of the Revised Statutes.

15 b. Whenever advertising is required: (1) specifications and
16 invitations for bids shall permit such full and free competition as is
17 consistent with the procurement of supplies and services necessary to
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19 bids shall be in such newspaper or newspapers selected by the
20 corporation as will best give notice thereof to bidders and shall be
21 sufficiently in advance of the purchase or contract to promote
22 competitive bidding; (3) the advertisement shall designate the time and
23 place when and where sealed proposals shall be received and publicly
24 opened and read, the amount of the cash, certified check, cashier's
25 check or bank check, if any, which shall accompany each bid, and such
26 other terms as the corporation may deem proper.

27 c. The corporation may reject any or all bids not in accord with
28 the advertisement of specifications, or may reject any or all bids if the
29 price of the work materials is excessively above the estimate cost or
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31 do so. The corporation shall prepare a list of the bids, including any
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35 (1) the responsible bidder whose bid, conforming to the invitation
36 for bids, will be the most advantageous to the State, price and other
37 factors considered, for contracts other than contracts for the
38 construction or improvement of capital facilities; or

39 (2) the lowest responsible bidder for contracts for the construction

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

Matter underlined thus is new matter.

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¹ Assembly ATR committee amendments adopted February 28, 2000.

² Assembly floor amendments adopted March 27, 2000.

1 or improvement of capital facilities. The ¹provisions of this paragraph
2 shall not limit the corporation's right to extend, add or resume
3 suspended work on any project. Nor shall the¹ provisions of this
4 paragraph ¹[shall not]¹ apply to the procurement process for design-
5 build projects or design-build, maintain and operate projects. Those
6 projects shall be bid and contracts awarded in accordance with
7 applicable regulations promulgated by the corporation . ²Nor shall the
8 provisions of this paragraph affect the corporation's minority and
9 women's business enterprise program, equal employment opportunity
10 program or any affirmative action program.²

11 d. A bid bond in an amount, not to exceed 50% of the bid, to be
12 determined by the corporation with such sureties as shall be approved
13 by the corporation in favor of the State of New Jersey, or a deposit
14 consisting of a cashier's check, certified check or letter of credit in an
15 amount set forth by the corporation, shall accompany each bid and
16 shall be held as security for the faithful performance of the contractor
17 in that, if awarded the contract, the bidder will deliver the contract
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19 and secured by satisfactory bonds in accordance with the provisions of
20 N.J.S.2A:44-143 through N.J.S.2A:44-147 and specifications for the
21 project. The corporation may require in addition to the bid bond or
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23 perform the work required by the contract as it may deem necessary
24 and advisable. All bid bonds or deposits which have been delivered
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27 e. If the bidder fails to provide a satisfactory bid bond or deposit
28 as provided in subsection d. of this section, the bid shall be rejected.

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30 various types of agreements or contracts, including provisions for
31 adequate security, the time and amount or percentage of each payment
32 thereon and the amount to be withheld pending completion of the
33 contract, and it shall issue and publish rules and regulations concerning
34 such terms and conditions, standard contract forms and such other
35 rules and regulations concerning purchasing or procurement, not
36 inconsistent with any applicable law, as it may deem advisable to
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40 without advertising under the following circumstances:

41 (1) When the aggregate amount involved does not exceed the
42 amount determined pursuant to section 2 of P.L.1954, c.48
43 (C.52:34-7); or

44 (2) In all other cases when the corporation seeks:

45 (a) To acquire public or private entities engaged in the provision
46 of public transportation service, used public transportation equipment

1 or existing public transportation facilities or rights of way; or

2 (b) To acquire subject matter which is that described in section 4
3 of P.L.1954, c.48 (C.52:34-9); or

4 (c) To make a purchase or award or make a contract or agreement
5 under the circumstances described in section 5 of P.L.1954, c.48
6 (C.52:34-10); or

7 (d) To contract pursuant to section 6 of P.L.1979, c.150
8 (C.27:25-6); or

9 (e) To acquire or overhaul motorbuses, light rail vehicles, rail cars,
10 locomotives, signal systems or fare collection systems.

11 h. The corporation shall require that all persons proposing to
12 submit bids on improvements to capital facilities and equipment shall
13 first be classified by the corporation as to the character or amount or
14 both of the work on which they shall be qualified to submit bids. Bids
15 shall be accepted only from persons qualified in accordance with such
16 classification.

17 (cf: P.L.1996, c.104, s.1).

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19 2. This act shall take effect on the first day of the fourth month
20 following enactment.

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25 Requires NJT to award contracts for construction or improvement of
26 capital facilities to lowest responsible bidder in certain circumstances.

CHAPTER 128

AN ACT concerning the award of certain contracts by the New Jersey Transit Corporation and amending P.L.1979, c.150.

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

1. Section 11 of P.L.1979, c.150 (C.27:25-11) is amended to read as follows:

C.27:25-11 Purchases, contractors or agreements; award; advertisement for bids; exemptions; bid bond; qualification of bidders.

11. a. All purchases, contracts or agreements pursuant to this act shall be made or awarded directly by the corporation, except as otherwise provided in this act, only after public advertisement for bids therefor, in the manner provided in this act, notwithstanding the provisions to the contrary of P.L.1948, c.92 (C.52:18A-1 et seq.) and chapters 25, 32, 33, 34 and 35 of Title 52 of the Revised Statutes.

b. Whenever advertising is required: (1) specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of supplies and services necessary to meet the requirements of the corporation; (2) the advertisement for bids shall be in such newspaper or newspapers selected by the corporation as will best give notice thereof to bidders and shall be sufficiently in advance of the purchase or contract to promote competitive bidding; (3) the advertisement shall designate the time and place when and where sealed proposals shall be received and publicly opened and read, the amount of the cash, certified check, cashier's check or bank check, if any, which shall accompany each bid, and such other terms as the corporation may deem proper.

c. The corporation may reject any or all bids not in accord with the advertisement of specifications, or may reject any or all bids if the price of the work materials is excessively above the estimate cost or when the corporation shall determine that it is in the public interest to do so. The corporation shall prepare a list of the bids, including any rejected and the cause therefor. The corporation may accept bids containing minor informalities. Awards shall be made by the corporation with reasonable promptness by written notice to:

(1) the responsible bidder whose bid, conforming to the invitation for bids, will be the most advantageous to the State, price and other factors considered, for contracts other than contracts for the construction or improvement of capital facilities; or

(2) the lowest responsible bidder for contracts for the construction or improvement of capital facilities. The provisions of this paragraph shall not limit the corporation's right to extend, add or resume suspended work on any project. Nor shall the provisions of this paragraph apply to the procurement process for design-build projects or design-build, maintain and operate projects. Those projects shall be bid and contracts awarded in accordance with applicable regulations promulgated by the corporation. Nor shall the provisions of this paragraph affect the corporation's minority and women's business enterprise program, equal employment opportunity program or any affirmative action program.

d. A bid bond in an amount, not to exceed 50% of the bid, to be determined by the corporation with such sureties as shall be approved by the corporation in favor of the State of New Jersey, or a deposit consisting of a cashier's check, certified check or letter of credit in an amount set forth by the corporation, shall accompany each bid and shall be held as security for the faithful performance of the contractor in that, if awarded the contract, the bidder will deliver the contract within 10 working days after the notice, of award, properly executed and secured by satisfactory bonds in accordance with the provisions of N.J.S.2A:44-143 through N.J.S.2A:44-147 and specifications for the project. The corporation may require in addition to the bid bond or deposit such additional evidence of the ability of a contractor to perform the work required by the contract as it may deem necessary and advisable. All bid bonds or deposits which have been delivered with the bids, except those of the two lowest responsible bidders, shall be returned within 30 working days after such bids are received.

e. If the bidder fails to provide a satisfactory bid bond or deposit as provided in subsection d. of this section, the bid shall be rejected.

f. The corporation shall determine the terms and conditions of the various types of agreements or contracts, including provisions for adequate security, the time and amount or percentage of each payment thereon and the amount to be withheld pending completion of the

contract, and it shall issue and publish rules and regulations concerning such terms and conditions, standard contract forms and such other rules and regulations concerning purchasing or procurement, not inconsistent with any applicable law, as it may deem advisable to promote competition and to protect the public interest.

g. Any purchase, contract or agreement pursuant to subsection a. hereof may be made, negotiated or awarded by the corporation without advertising under the following circumstances:

(1) When the aggregate amount involved does not exceed the amount determined pursuant to section 2 of P.L.1954, c.48 (C.52:34-7); or

(2) In all other cases when the corporation seeks:

(a) To acquire public or private entities engaged in the provision of public transportation service, used public transportation equipment or existing public transportation facilities or rights of way; or

(b) To acquire subject matter which is that described in section 4 of P.L.1954, c.48 (C.52:34-9); or

(c) To make a purchase or award or make a contract or agreement under the circumstances described in section 5 of P.L.1954, c.48 (C.52:34-10); or

(d) To contract pursuant to section 6 of P.L.1979, c.150 (C.27:25-6); or

(e) To acquire or overhaul motorbuses, light rail vehicles, rail cars, locomotives, signal systems or fare collection systems.

h. The corporation shall require that all persons proposing to submit bids on improvements to capital facilities and equipment shall first be classified by the corporation as to the character or amount or both of the work on which they shall be qualified to submit bids. Bids shall be accepted only from persons qualified in accordance with such classification.

2. This act shall take effect on the first day of the fourth month following enactment.

Approved September 21, 2000.