

Bill and Sponsors Statement identical to S2380

COMMITTEE STATEMENT:

ASSEMBLY: Yes

Identical to Senate Statement to S2380

SENATE: No

FLOOR AMENDMENT STATEMENTS:

No

LEGISLATIVE FISCAL ESTIMATE:

Yes

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

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No

NEWSPAPER ARTICLES:

No

SENATE, No. 2380

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MAY 14, 2001

Sponsored by:

Senator JOSEPH A. PALAIA

District 11 (Monmouth)

SYNOPSIS

Raises threshold for public advertisement of contracts under "County College Contracts Law."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the awarding of county college contracts and
2 amending P.L.1982, c.189.

3

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

6

7 1. Section 3 of P.L.1982, c.189 (C.18A:64A-25.3) is amended to
8 read as follows:

9 3. a. Any purchase, contract or agreement for the performance of
10 any work or the furnishing or hiring of materials or supplies, the cost
11 or price of which, together with any sums expended for the
12 performance of any work or services in connection with the same
13 project or the furnishing of similar materials or supplies during the
14 same fiscal year, paid with or out of college funds, does not exceed the
15 total sum of [~~\$7,500.00~~] \$25,000 or, commencing January 1, [~~1985~~]
16 2003, the amount determined pursuant to subsection b. of this section
17 in any fiscal year may be made, negotiated and awarded by a
18 contracting agent, when so authorized by resolution of the board of
19 trustees of the county college, without public advertising for bids and
20 bidding therefor.

21 b. Commencing January 1, [~~1985~~] 2003 and every two years
22 thereafter, the Governor, in consultation with the Department of the
23 Treasury, shall adjust the threshold amount set forth in subsection a.
24 of this section in direct proportion to the rise or fall of the Consumer
25 Price Index for all urban consumers in the New York and Northeastern
26 New Jersey and the Philadelphia areas as reported by the United States
27 Department of Labor. The adjustment shall become effective on July
28 1 of the year in which it is reported.

29 c. Any purchase, contract or agreement made pursuant to this
30 section may be awarded for a period of [~~12~~] 24 consecutive months,
31 notwithstanding that such [~~12~~] 24 -month period does not coincide
32 with the fiscal year.

33 (cf: P.L.1994, c.48, s.141)

34

35 2. Section 5 of P.L.1982, c.189 (C.18A:64A-25.5) is amended to
36 read as follows:

37 5. Any purchase, contract or agreement of the character described
38 in section 4 may be made, negotiated or awarded by the county college
39 by resolution at a public meeting of its board of trustees without public
40 advertising for bids or bidding therefor if:

41 a. The subject matter thereof consists of:

42 (1) Professional services; or

43 (2) Extraordinary unspecifiable services and products which cannot

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 reasonably be described by written specifications, subject however, to
2 procedures consistent with open public bidding whenever possible; or
- 3 (3) Materials or supplies which are not available from more than
4 one potential bidder, including without limitation materials or supplies
5 which are patented or copyrighted; or
- 6 (4) The doing of any work by employees of the county college; or
- 7 (5) The printing of all legal notices and legal briefs, records and
8 appendices to be used in any legal proceeding to which the county
9 college may be a party; or
- 10 (6) Textbooks, copyrighted materials, student produced
11 publications and services incidental thereto, library materials including
12 without limitation books, periodicals, newspapers, documents,
13 pamphlets, photographs, reproductions, microfilms, pictorial or
14 graphic works, musical scores, maps, charts, globes, sound recordings,
15 slides, films, filmstrips, video and magnetic tapes, other printed or
16 published matter and audiovisual and other materials of a similar
17 nature, necessary binding or rebinding of library materials and
18 specialized library services; or
- 19 (7) Food supplies and services including food supplies and
20 management contracts for student centers, dining rooms and
21 cafeterias; or
- 22 (8) The supplying of any product or the rendering of any service
23 by the public utility which is subject to the jurisdiction of the Board of
24 Public Utilities, in accordance with tariffs and schedules of charges
25 made, charged and exacted, filed with said board; or
- 26 (9) Equipment repair service if in the nature of an extraordinary
27 unspecifiable service and necessary parts furnished in connection with
28 such services; or
- 29 (10) Specialized machinery or equipment of a technical nature
30 which will not reasonably permit the drawing of specifications, and the
31 procurement thereof without advertising is in the public interest; or
- 32 (11) Insurance, including the purchase of insurance coverage and
33 consulting services, which exceptions shall be in accordance with the
34 requirements for extraordinary unspecifiable services; or
- 35 (12) Publishing of legal notices in newspapers, as required by law;
36 or
- 37 (13) The acquisition of artifacts or other items of unique intrinsic,
38 artistic or historic character; or
- 39 (14) The collection of amounts due on student loans, including
40 without limitation loans guaranteed by or made with funds of the
41 United States of America; or
- 42 (15) Professional consulting services; or
- 43 (16) Entertainment, including without limitation theatrical
44 presentations, band and other concerts, movies and other audiovisual
45 productions; or
- 46 (17) Contracts employing funds created by student activities fees

- 1 charged to students or otherwise raised by students, not under the
2 direct control of the college and expended by student organizations;
3 or
4 (18) Printing, including without limitation catalogs, yearbooks and
5 course announcements; or
6 (19) [Data processing, software programs, systems and service and
7 the rental or lease of data processing equipment] Providing goods or
8 services for the use, support or maintenance of proprietary computer
9 hardware, software peripherals and system development for the
10 hardware ; or
11 (20) Personnel recruitment and advertising, including without
12 limitation advertising seeking student enrollment; or
13 (21) Educational supplies, books, articles of clothing and other
14 miscellaneous articles purchased by a county college bookstore, or by
15 a service or management company under contract with a county
16 college to operate a county college book store for resale to college
17 students and employees; or
18 (22) Purchase or rental of graduation caps and gowns and award
19 certificates or plaques; or
20 (23) Expenses for travel or conferences; or
21 (24) Items available from vendors at costs below State contract
22 pricing for the same product or service, which meets or exceeds the
23 State contract terms or conditions.
24 b. It is to be made or entered into with the United States of
25 America, the State of New Jersey, a county or municipality or any
26 board, body, or officer, agency or authority or any other state or
27 subdivision thereof.
28 c. The county college has advertised for bids pursuant to section
29 4 of P.L.1982, c.189 (C.18A:64A-25.4) on two occasions and (i) has
30 received no bids on both occasions in response to its advertisement, or
31 (ii) has rejected such bids on two occasions because the county college
32 has determined that they are not reasonable as to price, on the basis of
33 cost estimates prepared for or by the county college prior to the
34 advertising therefor, or have not been independently arrived at in open
35 competition, or (iii) on one occasion no bids were received pursuant
36 to (i) and on one occasion all bids were rejected pursuant to (ii), in
37 whatever sequence; any such contract or agreement may then be
38 negotiated by a two-thirds affirmative vote of the authorized
39 membership of the board of trustees authorizing such contract or
40 agreement; provided, however, that:
41 (1) A reasonable effort is [just] made by the contracting agent to
42 determine that the same or equivalent materials or supplies at a cost
43 which is lower than the negotiated price are not available from any
44 agency or authority of the United States, the State of New Jersey or
45 [of] from the county in which the county college is located, or any
46 municipality in close proximity to the county college;

1 (2) The terms, conditions, restrictions and specifications set forth
2 in the negotiated contract or agreement are not substantially different
3 from those which were the subject of competitive bidding pursuant to
4 section 4 of P.L.1982, c.189 (C.18A:64A-25.4); and

5 (3) Any [minor] relevant amendment or modification of any of the
6 terms, conditions, restrictions and specifications, which were the
7 subject of competitive bidding pursuant to section 4 of P.L.1982,
8 c.189 (C.18A:64A-25.4), shall be stated in the resolution awarding
9 such contract or agreement; provided, further, however, that if on the
10 second occasion the bids received are rejected as unreasonable as to
11 price, the county college shall notify each responsible bidder
12 submitting bids on the second occasion of its intention to negotiate
13 and afford each such bidder a reasonable opportunity to negotiate, but
14 the county college shall not award such contract or agreement unless
15 the negotiated price is lower than the lowest rejected bid price
16 submitted on the second occasion by a responsible bidder, is the
17 lowest negotiated price offered by any responsible vendor, and is a
18 reasonable price for such work, materials, supplies or services.

19 Whenever a county college shall determine that a bid was not
20 arrived at independently in open competition pursuant to subsection
21 c. (ii) of this section, it shall thereupon notify the county prosecutor
22 of the county in which the county college is located and the Attorney
23 General of the facts upon which its determination is based and, when
24 appropriate, it may institute appropriate proceedings in any State or
25 federal court of competent jurisdiction for a violation of any State or
26 federal antitrust law or laws relating to the unlawful restraint of trade.
27 (cf: P.L.1994, c.48, s.142)

28
29 3. Section 6 of P.L.1982, c.189 (C.18A:64A-25.6) is amended to
30 read as follows:

31 6. Any purchase, contract, or agreement may be made, negotiated
32 or awarded by a county college without public advertising for bids
33 and bidding therefor, notwithstanding that the cost or contract price
34 will exceed ~~[\$7,500.00]~~ \$25,000 or, commencing January 1, ~~[1985]~~
35 2003, the amount determined pursuant to subsection b. of section 3 of
36 P.L.1982, c. 189 (C. 18A:64A-25.3), when an emergency affecting the
37 health, safety or welfare of occupants of college property requires the
38 immediate delivery of the materials or supplies or the performance of
39 the work, provided that such purchases, contracts or agreements are
40 awarded or made in the following manner:

41 a. A written requisition for the performance of such work or the
42 furnishing of materials or supplies, certified by the employee in charge
43 of the building, facility or equipment where the emergency occurred,
44 is filed with the contracting agent or his deputy in charge, describing
45 the nature of the emergency, the time of its occurrence, and the need
46 for invoking this section. The contracting agent, or his deputy in

1 charge, being satisfied that the emergency exists, is hereby authorized
2 to award a contract for said work, materials or supplies.

3 b. Upon the furnishing of such work, materials or supplies in
4 accordance with the terms of the contract or agreement, the contractor
5 furnishing such work, materials or supplies shall be entitled to be paid
6 therefor and the county college shall be obligated for said payment.

7 c. The board of trustees may prescribe rules and procedures to
8 implement the requirements of this section.

9 (cf: P.L.1984, c.241, s.4)

10

11 4. Section 10 of P.L.1982, c.189 (C.18A:64A-25.10) is amended
12 to read as follows:

13 10. The board of trustees of two or more county colleges may
14 provide jointly by agreement for the purchasing of work, materials or
15 supplies for their respective colleges, or one or more county colleges
16 may provide for such purchase by joint agreement with the governing
17 bodies of any municipality or of the county within whose boundaries
18 any such college or colleges is or are wholly or partly located and may
19 enter agreements with other institutions of higher education or with
20 other units of government pursuant to the "Local Public Contracts
21 Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

22 (cf: P.L.1982, c.189, s.10)

23

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

26 25. In the preparation of plans and specifications for the
27 construction, alteration or repair of any building by a county college,
28 when the entire cost of the work and materials will exceed
29 ~~[\$7,500.00]~~ \$25,000 or, commencing January 1, ~~[1985]~~ 2003, the
30 amount determined pursuant to subsection b. of section 3 of P.L.1982,
31 c.189 (C.18A:64A-25.3), separate plans and specifications may be
32 prepared for each of the following to include all work and materials
33 related thereto or to be performed or furnished in connection
34 therewith:

35 (a) The plumbing and gas fitting work;

36 (b) The heating and ventilating systems and equipment;

37 (c) The electrical work, including any electrical power plants;

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

39 (e) All other work and materials required for the completion of the
40 project.

41 The contracting agent shall advertise for and receive in the manner
42 provided by law (1) separate bids for each of the foregoing categories
43 (a) through (e), or (2) bids for all work and materials required to
44 complete the entire project, if awarded as a single contract, or (3)
45 both. [All bids submitted shall set forth the name or names of, and
46 evidence of performance security from, all subcontractors to whom

1 the bidder will subcontract the work described in the foregoing
2 categories (a) through (e)] Prior to the award of the contract, the
3 successful bidder shall provide a list of the subcontractors proposed to
4 perform work described in categories (a) through (d), together with
5 evidence of performance security for each of the listed subcontractors.
6 Evidence of performance security may be supplied by the bidder on
7 behalf of himself and any or all subcontractors, or by each respective
8 subcontractor, or by any combination thereof which results in evidence
9 of performance security equaling, but in no event exceeding, the total
10 amount bid .

11 Contracts shall be awarded to the lowest responsible bidder. In the
12 event that a contract is advertised in accordance with (3) above, the
13 contract shall be awarded in the following manner: if the sum total of
14 the amounts bid by the lowest responsible bidder for each category (a)
15 through (e) is less than the amount bid by the lowest responsible
16 bidder for all the work and materials, the county college shall award
17 separate contracts for each of such categories to the lowest
18 responsible bidder therefor, but if the sum total of the amount bid by
19 the lowest responsible bidder for each category is not less than the
20 amount bid by the lowest responsible bidder for all the work and
21 materials, the county college shall award a single contract to the
22 lowest responsible bidder for all of such work and materials. In every
23 case in which a contract is awarded under (2) above, all payments
24 required to be made under the contract for work and materials
25 supplied by a subcontractor shall [, upon the certification of the
26 contractor of the amount due to the subcontractor, be paid directly to
27 the subcontractor] be paid to the contractor, or, pursuant to the
28 written direction of the contractor, to a subcontractor.

29 (cf: P.L.1984, c.241, s.7)

30

31 6. Section 27 of P.L.1982, c.189 (C.18A:64A-25.27) is amended
32 to read as follows:

33 27. Any county college may, by resolution of its board of trustees,
34 authorize the sale in the following manner of its personal property not
35 needed for college purposes:

36 a. If the estimated fair value of the property to be sold exceeds
37 [\$7,500.00] \$25,000 or, commencing January 1, [1985] 2003, the
38 amount determined pursuant to subsection b. of section 3 of
39 P.L.1982, c. 189 (C. 18A:64A-25.3) in any one sale and the property
40 does not consist of perishable goods, it shall be sold at public sale to
41 the highest bidder.

42 b. Notice of the date, time and place of the public sale, together
43 with a description of the items to be sold and the conditions of sale
44 shall be published once in a legal newspaper. Such sales shall be held
45 not less than seven nor more than 14 days after the publication of the
46 notice thereof.

1 c. Personal property may be sold to the United States, the State of
2 New Jersey, another county college or to any body politic by private
3 sale without advertising for bids.

4 d. If no bids are received, the property may then be sold at private
5 sale without further publication or notice thereof but in no event at
6 less than the estimated fair value; or the county college may, if it so
7 elects, reoffer the property at public sale. As used herein, "estimated
8 fair value" means the market value of the property if sold by a willing
9 seller to a willing buyer less the cost to the college of continuing to
10 store or maintain such property.

11 e. A county college may reject all bids if it determines such
12 rejection to be in the public interest. In any case in which the college
13 has rejected all bids, it may readvertise such personal property for a
14 subsequent public sale. If it elects to reject all bids at a second public
15 sale pursuant to this section, it may then sell such personal property
16 without further publication or notice thereof at private sale, provided
17 that in no event shall the negotiated price at the private sale be less
18 than the amount of the highest bid rejected at the preceding two
19 public sales, and provided further that in no event shall the terms or
20 conditions of sale be changed or amended.

21 f. If the estimated fair value of the property to be sold does not
22 exceed ~~[\$7,500.00]~~ \$25,000 or, commencing January 1, ~~[1985]~~ 2003,
23 the amount determined pursuant to subsection b. of section 3 of
24 P.L.1982, c.189 (C.18A:64A-25.3) in any one sale or the property
25 consists of perishable goods, it may be sold at private sale without
26 advertising for bids.

27 g. Notwithstanding the provisions of this section, by resolution of
28 the board of trustees, a purchasing agent may include a sale of
29 personal property no longer needed for county college purposes as
30 part of specifications to offset the price of a new purchase.

31 (cf: P.L.1984, c.241, s.8)

32

33 7. Section 28 of P.L.1982, c.189 (C.18A:64A-25.28) is amended
34 to read as follows:

35 28. Duration of certain contracts. A county college may only enter
36 into a contract exceeding ~~[12]~~ 24 consecutive months for the:

37 a. Supplying of:

38 (1) Fuel for heating purposes for any term not exceeding in the
39 aggregate three years; or

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

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

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

46 d. ~~[Data processing programs, systems and services or rental or~~

- 1 lease of data processing equipment] Providing goods or services for
2 the use, support or maintenance of proprietary computer hardware,
3 software peripherals and system development for the hardware for any
4 term of not more than five years; or
- 5 e. Insurance, including the purchase of insurance coverages,
6 insurance consultant or administrative services, and including
7 participation in a joint self-insurance fund, risk management programs
8 or related services provided by a county college insurance group, or
9 participation in an insurance fund established by a county pursuant to
10 N.J.S.40A:10-6, for any term of not more than three years; or
- 11 f. Leasing or service of automobiles, motor vehicles, electronic
12 communications equipment, machinery and equipment of every nature
13 and kind for any term not exceeding in the aggregate five years; or
- 14 g. Supplying of any product or rendering of any service by a
15 [telephone] company [which is subject to the jurisdiction of the
16 Board of Public Utilities] providing voice, data, transmission or
17 switching services, for a term not exceeding five years; or
- 18 h. The providing of food supplies and services, including food
19 supplies and management contracts for student centers, dining rooms
20 and cafeterias, for a term not exceeding three years; or
- 21 i. The performance of work or services or the furnishing of
22 materials or supplies for the purpose of conserving energy in buildings
23 owned by, or operations conducted by, the contracting unit, the entire
24 price of which is to be established as a percentage of the resultant
25 savings in energy costs, for a term not exceeding 10 years; provided
26 that a contract is entered into only subject to and in accordance with
27 [rules and regulations adopted] guidelines promulgated by the
28 [Department of Commerce, Energy and Economic Development]
29 Board of Public Utilities establishing a methodology for computing
30 energy cost savings; or
- 31 j. Any single project for the construction, reconstruction or
32 rehabilitation of a public building, structure or facility, or a public
33 works project including the retention of the services of an architect or
34 engineer in connection with the project, for the length of time
35 necessary for the completion of the actual construction; or
- 36 k. The management and operation of bookstores for a term not
37 exceeding five years; or
- 38 l. Custodial or janitorial services for any term not exceeding in the
39 aggregate three years; or
- 40 m. Child care services for a term not exceeding three years; or
41 n. Security services for a term not exceeding three years; or
42 o. Ground maintenance services for a term not exceeding three
43 years; or
- 44 p. Laundering, dry-cleaning or rental of uniforms for a term not
45 exceeding three years.
- 46 All multi-year leases and contracts entered into pursuant to this

1 section, except [contracts for the leasing or servicing of equipment
2 supplied by a telephone company which is subject to the jurisdiction
3 of the Board of Public Utilities, or] contracts and agreements for the
4 provision of work or the supplying of equipment to promote energy
5 conservation and authorized pursuant to subsection i. of this section,
6 and except contracts for insurance coverages, insurance consultant or
7 administrative services, participation or membership in a joint
8 self-insurance fund, risk management programs or related services of
9 a county college insurance group, and participation in an insurance
10 fund established by a county pursuant to N.J.S.40A:10-6 or a joint
11 insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36
12 et seq.), shall contain a clause making them subject to the availability
13 and appropriation annually of sufficient funds to meet the extended
14 obligation or contain an annual cancellation clause.
15 (cf: P.L.1994, c.48, s.144)

16

17 8. This act shall take effect on the first day of the third month after
18 enactment and shall be applicable to purchases, contracts or
19 agreements for which public advertising for bids commenced on or
20 after the effective date of this act.

21

22

23

STATEMENT

24

25 This bill makes various changes to the "County College Contracts
26 Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.).

27 The bill raises to \$25,000 the threshold above which a contract
28 must be publicly advertised and publicly bid. Commencing January 1,
29 2003, and every two years thereafter, the Governor will adjust this
30 amount in proportion to the rise or fall of the Consumer Price Index.

31 The bill makes changes to the section of law that enumerates
32 exemptions to the requirement for public advertising and bidding. The
33 bill exempts contracts that concern: expenses for travel or conferences;
34 items available from vendors at costs below State contract pricing for
35 the same product or service; and the providing of goods or services for
36 the use, support or maintenance of proprietary computer hardware,
37 software peripherals and system development for the hardware.

38 Pursuant to the bill, prior to the award of a contract the successful
39 bidder is required to provide a list of the subcontractors proposed to
40 perform work under the contract. The bill also requires that all
41 payments required to be made under the contract for work and
42 materials supplied by a subcontractor must be paid to the contractor,
43 or, if the contractor provides written direction, to the subcontractor.

44 The bill extends the period for which a contract may be awarded
45 from 12 to 24 months and adds to the list of types of contracts that
46 may exceed the 24-month period. Contracts concerning the supplying

S2380 PALAIA

11

- 1 of child care services, security services, ground maintenance services
- 2 and the laundering, dry-cleaning or rental of uniforms may all be bid
- 3 for a term not exceeding three years.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 2380

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2001

The Senate Education Committee reports favorably and with committee amendments Senate Bill No. 2380.

As amended, this bill amends the "County College Contracts Law," P.L.1982, c.189, to make the following changes:

1) raise to \$25,000 the threshold above which a contract must be publicly advertised and publicly bid. Beginning January 1, 2003, and every two years thereafter, the Governor will adjust this amount in proportion to the rise or fall of the Consumer Price Index;

2) exempt from the requirement for public advertising and bidding, contracts that concern expenses for travel or conferences, items available from vendors at costs below State contract pricing for the same product or service, and the providing of goods or services for the use, support or maintenance of proprietary computer hardware, software peripherals and system development for the hardware;

3) extend the period for which a contract may be awarded from 12 to 24 months, and adds to the list of the types of contracts that may exceed the 24-month period contracts concerning the supplying of child care services, security services, ground maintenance services and the laundering, dry-cleaning or rental of uniforms which may all be bid for a term not exceeding three years.

The committee amended the bill to delete: 1) a provision in the bill which revised the manner in which evidence of performance security for the contractor and any subcontractors is supplied to the county college by bidders; and, 2) a provision which revised the manner in which payment is made to subcontractors.

[First Reprint]

SENATE, No. 2380

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MAY 14, 2001

Sponsored by:

Senator JOSEPH A. PALAIA

District 11 (Monmouth)

Senator DIANE ALLEN

District 7 (Burlington and Camden)

Co-Sponsored by:

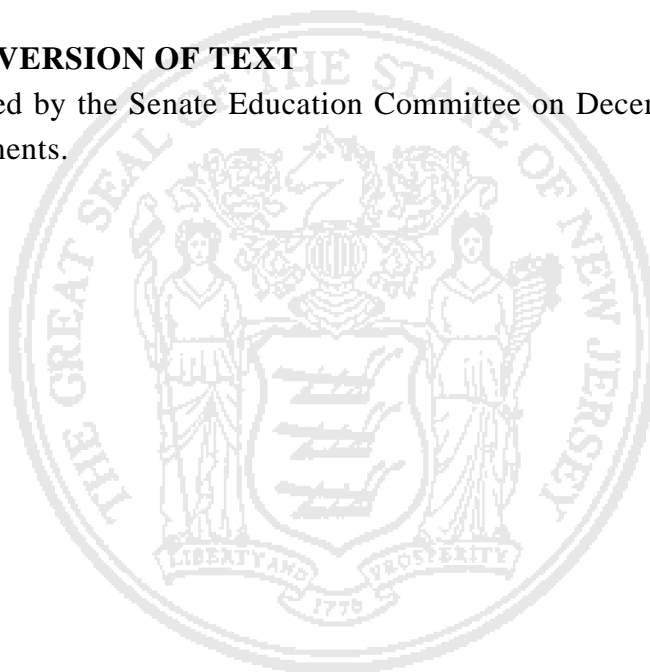
Assemblymen Malone, Lance and Bateman

SYNOPSIS

Raises threshold for public advertisement of contracts under "County College Contracts Law."

CURRENT VERSION OF TEXT

As reported by the Senate Education Committee on December 13, 2001, with amendments.



(Sponsorship Updated As Of: 12/18/2001)

1 AN ACT concerning the awarding of county college contracts and
2 amending P.L.1982, c.189.

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

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7 1. Section 3 of P.L.1982, c.189 (C.18A:64A-25.3) is amended to
8 read as follows:

9 3. a. Any purchase, contract or agreement for the performance of
10 any work or the furnishing or hiring of materials or supplies, the cost
11 or price of which, together with any sums expended for the
12 performance of any work or services in connection with the same
13 project or the furnishing of similar materials or supplies during the
14 same fiscal year, paid with or out of college funds, does not exceed the
15 total sum of [~~\$7,500.00~~] \$25,000 or, commencing January 1, [~~1985~~]
16 2003, the amount determined pursuant to subsection b. of this section
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19 trustees of the county college, without public advertising for bids and
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21 b. Commencing January 1, [~~1985~~] 2003 and every two years
22 thereafter, the Governor, in consultation with the Department of the
23 Treasury, shall adjust the threshold amount set forth in subsection a.
24 of this section in direct proportion to the rise or fall of the Consumer
25 Price Index for all urban consumers in the New York and Northeastern
26 New Jersey and the Philadelphia areas as reported by the United States
27 Department of Labor. The adjustment shall become effective on July
28 1 of the year in which it is reported.

29 c. Any purchase, contract or agreement made pursuant to this
30 section may be awarded for a period of [~~12~~] 24 consecutive months,
31 notwithstanding that such [~~12~~] 24 -month period does not coincide
32 with the fiscal year.

33 (cf: P.L.1994, c.48, s.141)

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Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SED committee amendments adopted December 13, 2001.

- 1 (1) Professional services; or
- 2 (2) Extraordinary unspecifiable services and products which cannot
3 reasonably be described by written specifications, subject however, to
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- 5 (3) Materials or supplies which are not available from more than
6 one potential bidder, including without limitation materials or supplies
7 which are patented or copyrighted; or
- 8 (4) The doing of any work by employees of the county college; or
- 9 (5) The printing of all legal notices and legal briefs, records and
10 appendices to be used in any legal proceeding to which the county
11 college may be a party; or
- 12 (6) Textbooks, copyrighted materials, student produced
13 publications and services incidental thereto, library materials including
14 without limitation books, periodicals, newspapers, documents,
15 pamphlets, photographs, reproductions, microfilms, pictorial or
16 graphic works, musical scores, maps, charts, globes, sound recordings,
17 slides, films, filmstrips, video and magnetic tapes, other printed or
18 published matter and audiovisual and other materials of a similar
19 nature, necessary binding or rebinding of library materials and
20 specialized library services; or
- 21 (7) Food supplies and services including food supplies and
22 management contracts for student centers, dining rooms and
23 cafeterias; or
- 24 (8) The supplying of any product or the rendering of any service
25 by the public utility which is subject to the jurisdiction of the Board of
26 Public Utilities, in accordance with tariffs and schedules of charges
27 made, charged and exacted, filed with said board; or
- 28 (9) Equipment repair service if in the nature of an extraordinary
29 unspecifiable service and necessary parts furnished in connection with
30 such services; or
- 31 (10) Specialized machinery or equipment of a technical nature
32 which will not reasonably permit the drawing of specifications, and the
33 procurement thereof without advertising is in the public interest; or
- 34 (11) Insurance, including the purchase of insurance coverage and
35 consulting services, which exceptions shall be in accordance with the
36 requirements for extraordinary unspecifiable services; or
- 37 (12) Publishing of legal notices in newspapers, as required by law;
38 or
- 39 (13) The acquisition of artifacts or other items of unique intrinsic,
40 artistic or historic character; or
- 41 (14) The collection of amounts due on student loans, including
42 without limitation loans guaranteed by or made with funds of the
43 United States of America; or
- 44 (15) Professional consulting services; or
- 45 (16) Entertainment, including without limitation theatrical
46 presentations, band and other concerts, movies and other audiovisual

1 productions; or

2 (17) Contracts employing funds created by student activities fees
3 charged to students or otherwise raised by students, not under the
4 direct control of the college and expended by student organizations;
5 or

6 (18) Printing, including without limitation catalogs, yearbooks and
7 course announcements; or

8 (19) [Data processing, software programs, systems and service and
9 the rental or lease of data processing equipment] Providing goods or
10 services for the use, support or maintenance of proprietary computer
11 hardware, software peripherals and system development for the
12 hardware ; or

13 (20) Personnel recruitment and advertising, including without
14 limitation advertising seeking student enrollment; or

15 (21) Educational supplies, books, articles of clothing and other
16 miscellaneous articles purchased by a county college bookstore, or by
17 a service or management company under contract with a county
18 college to operate a county college book store for resale to college
19 students and employees; or

20 (22) Purchase or rental of graduation caps and gowns and award
21 certificates or plaques; or

22 (23) Expenses for travel or conferences; or

23 (24) Items available from vendors at costs below State contract
24 pricing for the same product or service, which meets or exceeds the
25 State contract terms or conditions.

26 b. It is to be made or entered into with the United States of
27 America, the State of New Jersey, a county or municipality or any
28 board, body, or officer, agency or authority or any other state or
29 subdivision thereof.

30 c. The county college has advertised for bids pursuant to section
31 4 of P.L.1982, c.189 (C.18A:64A-25.4) on two occasions and (i) has
32 received no bids on both occasions in response to its advertisement, or
33 (ii) has rejected such bids on two occasions because the county college
34 has determined that they are not reasonable as to price, on the basis of
35 cost estimates prepared for or by the county college prior to the
36 advertising therefor, or have not been independently arrived at in open
37 competition, or (iii) on one occasion no bids were received pursuant
38 to (i) and on one occasion all bids were rejected pursuant to (ii), in
39 whatever sequence; any such contract or agreement may then be
40 negotiated by a two-thirds affirmative vote of the authorized
41 membership of the board of trustees authorizing such contract or
42 agreement; provided, however, that:

43 (1) A reasonable effort is [just] made by the contracting agent to
44 determine that the same or equivalent materials or supplies at a cost
45 which is lower than the negotiated price are not available from any
46 agency or authority of the United States, the State of New Jersey or

1 [of] from the county in which the county college is located, or any
2 municipality in close proximity to the county college;

3 (2) The terms, conditions, restrictions and specifications set forth
4 in the negotiated contract or agreement are not substantially different
5 from those which were the subject of competitive bidding pursuant to
6 section 4 of P.L.1982, c.189 (C.18A:64A-25.4); and

7 (3) Any [minor] relevant amendment or modification of any of the
8 terms, conditions, restrictions and specifications, which were the
9 subject of competitive bidding pursuant to section 4 of P.L.1982,
10 c.189 (C.18A:64A-25.4), shall be stated in the resolution awarding
11 such contract or agreement; provided, further, however, that if on the
12 second occasion the bids received are rejected as unreasonable as to
13 price, the county college shall notify each responsible bidder
14 submitting bids on the second occasion of its intention to negotiate
15 and afford each such bidder a reasonable opportunity to negotiate, but
16 the county college shall not award such contract or agreement unless
17 the negotiated price is lower than the lowest rejected bid price
18 submitted on the second occasion by a responsible bidder, is the
19 lowest negotiated price offered by any responsible vendor, and is a
20 reasonable price for such work, materials, supplies or services.

21 Whenever a county college shall determine that a bid was not
22 arrived at independently in open competition pursuant to subsection
23 c. (ii) of this section, it shall thereupon notify the county prosecutor
24 of the county in which the county college is located and the Attorney
25 General of the facts upon which its determination is based and, when
26 appropriate, it may institute appropriate proceedings in any State or
27 federal court of competent jurisdiction for a violation of any State or
28 federal antitrust law or laws relating to the unlawful restraint of trade.
29 (cf: P.L.1994, c.48, s.142)

30

31 3. Section 6 of P.L.1982, c.189 (C.18A:64A-25.6) is amended to
32 read as follows:

33 6. Any purchase, contract, or agreement may be made, negotiated
34 or awarded by a county college without public advertising for bids
35 and bidding therefor, notwithstanding that the cost or contract price
36 will exceed [~~\$7,500.00~~] \$25,000 or, commencing January 1, [~~1985~~]
37 2003, the amount determined pursuant to subsection b. of section 3 of
38 P.L.1982, c. 189 (C. 18A:64A-25.3), when an emergency affecting the
39 health, safety or welfare of occupants of college property requires the
40 immediate delivery of the materials or supplies or the performance of
41 the work, provided that such purchases, contracts or agreements are
42 awarded or made in the following manner:

43 a. A written requisition for the performance of such work or the
44 furnishing of materials or supplies, certified by the employee in charge
45 of the building, facility or equipment where the emergency occurred,
46 is filed with the contracting agent or his deputy in charge, describing

1 the nature of the emergency, the time of its occurrence, and the need
2 for invoking this section. The contracting agent, or his deputy in
3 charge, being satisfied that the emergency exists, is hereby authorized
4 to award a contract for said work, materials or supplies.

5 b. Upon the furnishing of such work, materials or supplies in
6 accordance with the terms of the contract or agreement, the contractor
7 furnishing such work, materials or supplies shall be entitled to be paid
8 therefor and the county college shall be obligated for said payment.

9 c. The board of trustees may prescribe rules and procedures to
10 implement the requirements of this section.

11 (cf: P.L.1984, c.241, s.4)

12
13 4. Section 10 of P.L.1982, c.189 (C.18A:64A-25.10) is amended
14 to read as follows:

15 10. The board of trustees of two or more county colleges may
16 provide jointly by agreement for the purchasing of work, materials or
17 supplies for their respective colleges, or one or more county colleges
18 may provide for such purchase by joint agreement with the governing
19 bodies of any municipality or of the county within whose boundaries
20 any such college or colleges is or are wholly or partly located and may
21 enter agreements with other institutions of higher education or with
22 other units of government pursuant to the "Local Public Contracts
23 Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

24 (cf: P.L.1982, c.189, s.10)

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

28 25. In the preparation of plans and specifications for the
29 construction, alteration or repair of any building by a county college,
30 when the entire cost of the work and materials will exceed
31 ~~[\$7,500.00]~~ \$25,000 or, commencing January 1, ~~[1985]~~ 2003, the
32 amount determined pursuant to subsection b. of section 3 of P.L.1982,
33 c.189 (C.18A:64A-25.3), separate plans and specifications may be
34 prepared for each of the following to include all work and materials
35 related thereto or to be performed or furnished in connection
36 therewith:

37 (a) The plumbing and gas fitting work;

38 (b) The heating and ventilating systems and equipment;

39 (c) The electrical work, including any electrical power plants;

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

41 (e) All other work and materials required for the completion of the
42 project.

43 The contracting agent shall advertise for and receive in the manner
44 provided by law (1) separate bids for each of the foregoing categories
45 (a) through (e), or (2) bids for all work and materials required to
46 complete the entire project, if awarded as a single contract, or (3)

1 both. [All bids submitted shall set forth the name or names of, and
2 evidence of performance security from, all subcontractors to whom
3 the bidder will subcontract the work described in the foregoing
4 categories (a) through (e)] ¹[Prior to the award of the contract, the
5 successful bidder shall provide a list of the subcontractors proposed to
6 perform work described in categories (a) through (d), together with
7 evidence of performance security for each of the listed 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 respective
10 subcontractor, or by any combination thereof which results in evidence
11 of performance security equaling, but in no event exceeding, the total
12 amount bid] All bids submitted shall set forth the name or names of,
13 and evidence of performance security from, all subcontractors to
14 whom the bidder will subcontract the work described in the foregoing
15 categories (a) through (e)¹.

16 Contracts shall be awarded to the lowest responsible bidder. In the
17 event that a contract is advertised in accordance with (3) above, the
18 contract shall be awarded in the following manner: if the sum total of
19 the amounts bid by the lowest responsible bidder for each category (a)
20 through (e) is less than the amount bid by the lowest responsible
21 bidder for all the work and materials, the county college shall award
22 separate contracts for each of such categories to the lowest
23 responsible bidder therefor, but if the sum total of the amount bid by
24 the lowest responsible bidder for each category is not less than the
25 amount bid by the lowest responsible bidder for all the work and
26 materials, the county college shall award a single contract to the
27 lowest responsible bidder for all of such work and materials. In every
28 case in which a contract is awarded under (2) above, all payments
29 required to be made under the contract for work and materials
30 supplied by a subcontractor shall [, upon the certification of the
31 contractor of the amount due to the subcontractor, be paid directly to
32 the subcontractor] ¹[be paid to the contractor, or, pursuant to the
33 written direction of the contractor, to a subcontractor] , upon the
34 certification of the contractor of the amount due to the subcontractor,
35 be paid directly to the subcontractor¹.

36 (cf: P.L.1984, c.241, s.7)

37

38 6. Section 27 of P.L.1982, c.189 (C.18A:64A-25.27) is amended
39 to read as follows:

40 27. Any county college may, by resolution of its board of trustees,
41 authorize the sale in the following manner of its personal property not
42 needed for college purposes:

43 a. If the estimated fair value of the property to be sold exceeds
44 [\$7,500.00] \$25,000 or, commencing January 1, [1985] 2003, the
45 amount determined pursuant to subsection b. of section 3 of
46 P.L.1982, c. 189 (C. 18A:64A-25.3) in any one sale and the property

1 does not consist of perishable goods, it shall be sold at public sale to
2 the highest bidder.

3 b. Notice of the date, time and place of the public sale, together
4 with a description of the items to be sold and the conditions of sale
5 shall be published once in a legal newspaper. Such sales shall be held
6 not less than seven nor more than 14 days after the publication of the
7 notice thereof.

8 c. Personal property may be sold to the United States, the State of
9 New Jersey, another county college or to any body politic by private
10 sale without advertising for bids.

11 d. If no bids are received, the property may then be sold at private
12 sale without further publication or notice thereof but in no event at
13 less than the estimated fair value; or the county college may, if it so
14 elects, reoffer the property at public sale. As used herein, "estimated
15 fair value" means the market value of the property if sold by a willing
16 seller to a willing buyer less the cost to the college of continuing to
17 store or maintain such property.

18 e. A county college may reject all bids if it determines such
19 rejection to be in the public interest. In any case in which the college
20 has rejected all bids, it may readvertise such personal property for a
21 subsequent public sale. If it elects to reject all bids at a second public
22 sale pursuant to this section, it may then sell such personal property
23 without further publication or notice thereof at private sale, provided
24 that in no event shall the negotiated price at the private sale be less
25 than the amount of the highest bid rejected at the preceding two
26 public sales, and provided further that in no event shall the terms or
27 conditions of sale be changed or amended.

28 f. If the estimated fair value of the property to be sold does not
29 exceed ~~[\$7,500.00]~~ \$25,000 or, commencing January 1, ~~[1985]~~ 2003,
30 the amount determined pursuant to subsection b. of section 3 of
31 P.L.1982, c.189 (C.18A:64A-25.3) in any one sale or the property
32 consists of perishable goods, it may be sold at private sale without
33 advertising for bids.

34 g. Notwithstanding the provisions of this section, by resolution of
35 the board of trustees, a purchasing agent may include a sale of
36 personal property no longer needed for county college purposes as
37 part of specifications to offset the price of a new purchase.

38 (cf: P.L.1984, c.241, s.8)

39

40 7. Section 28 of P.L.1982, c.189 (C.18A:64A-25.28) is amended
41 to read as follows:

42 28. Duration of certain contracts. A county college may only enter
43 into a contract exceeding ~~[12]~~ 24 consecutive months for the:

44 a. Supplying of:

45 (1) Fuel for heating purposes for any term not exceeding in the
46 aggregate three years; or

- 1 (2) Fuel or oil for use in automobiles, autobuses, motor vehicles or
2 equipment for any term not exceeding in the aggregate three years; or
3 b. Plowing and removal of snow and ice for any term not exceeding
4 in the aggregate three years; or
5 c. Collection and disposal of garbage and refuse for any term not
6 exceeding in the aggregate three years; or
7 d. [Data processing programs, systems and services or rental or
8 lease of data processing equipment] Providing goods or services for
9 the use, support or maintenance of proprietary computer hardware,
10 software peripherals and system development for the hardware for any
11 term of not more than five years; or
12 e. Insurance, including the purchase of insurance coverages,
13 insurance consultant or administrative services, and including
14 participation in a joint self-insurance fund, risk management programs
15 or related services provided by a county college insurance group, or
16 participation in an insurance fund established by a county pursuant to
17 N.J.S.40A:10-6, for any term of not more than three years; or
18 f. Leasing or service of automobiles, motor vehicles, electronic
19 communications equipment, machinery and equipment of every nature
20 and kind for any term not exceeding in the aggregate five years; or
21 g. Supplying of any product or rendering of any service by a
22 [telephone] company [which is subject to the jurisdiction of the
23 Board of Public Utilities] providing voice, data, transmission or
24 switching services, for a term not exceeding five years; or
25 h. The providing of food supplies and services, including food
26 supplies and management contracts for student centers, dining rooms
27 and cafeterias, for a term not exceeding three years; or
28 i. The performance of work or services or the furnishing of
29 materials or supplies for the purpose of conserving energy in buildings
30 owned by, or operations conducted by, the contracting unit, the entire
31 price of which is to be established as a percentage of the resultant
32 savings in energy costs, for a term not exceeding 10 years; provided
33 that a contract is entered into only subject to and in accordance with
34 [rules and regulations adopted] guidelines promulgated by the
35 [Department of Commerce, Energy and Economic Development]
36 Board of Public Utilities establishing a methodology for computing
37 energy cost savings; or
38 j. Any single project for the construction, reconstruction or
39 rehabilitation of a public building, structure or facility, or a public
40 works project including the retention of the services of an architect or
41 engineer in connection with the project, for the length of time
42 necessary for the completion of the actual construction; or
43 k. The management and operation of bookstores for a term not
44 exceeding five years; or
45 l. Custodial or janitorial services for any term not exceeding in the
46 aggregate three years; or

- 1 m. Child care services for a term not exceeding three years; or
- 2 n. Security services for a term not exceeding three years; or
- 3 o. Ground maintenance services for a term not exceeding three
- 4 years; or
- 5 p. Laundering, dry-cleaning or rental of uniforms for a term not
- 6 exceeding three years.

7 All multi-year leases and contracts entered into pursuant to this
8 section, except [contracts for the leasing or servicing of equipment
9 supplied by a telephone company which is subject to the jurisdiction
10 of the Board of Public Utilities, or] contracts and agreements for the
11 provision of work or the supplying of equipment to promote energy
12 conservation and authorized pursuant to subsection i. of this section,
13 and except contracts for insurance coverages, insurance consultant or
14 administrative services, participation or membership in a joint
15 self-insurance fund, risk management programs or related services of
16 a county college insurance group, and participation in an insurance
17 fund established by a county pursuant to N.J.S.40A:10-6 or a joint
18 insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36
19 et seq.), shall contain a clause making them subject to the availability
20 and appropriation annually of sufficient funds to meet the extended
21 obligation or contain an annual cancellation clause.

22 (cf: P.L.1994, c.48, s.144)

23

24 8. This act shall take effect on the first day of the third month after
25 enactment and shall be applicable to purchases, contracts or
26 agreements for which public advertising for bids commenced on or
27 after the effective date of this act.

ASSEMBLY, No. 3282

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MARCH 8, 2001

Sponsored by:

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Monmouth and Ocean)

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

SYNOPSIS

Raises threshold for public advertisement of contracts under "County College Contracts Law."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the awarding of county college contracts and
2 amending P.L.1982, c.189.

3

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

6

7 1. Section 3 of P.L.1982, c.189 (C.18A:64A-25.3) is amended to
8 read as follows:

9 3. a. Any purchase, contract or agreement for the performance of
10 any work or the furnishing or hiring of materials or supplies, the cost
11 or price of which, together with any sums expended for the
12 performance of any work or services in connection with the same
13 project or the furnishing of similar materials or supplies during the
14 same fiscal year, paid with or out of college funds, does not exceed the
15 total sum of [~~\$7,500.00~~] \$25,000 or, commencing January 1, [~~1985~~]
16 2003, the amount determined pursuant to subsection b. of this section
17 in any fiscal year may be made, negotiated and awarded by a
18 contracting agent, when so authorized by resolution of the board of
19 trustees of the county college, without public advertising for bids and
20 bidding therefor.

21 b. Commencing January 1, [~~1985~~] 2003 and every two years
22 thereafter, the Governor, in consultation with the Department of the
23 Treasury, shall adjust the threshold amount set forth in subsection a.
24 of this section in direct proportion to the rise or fall of the Consumer
25 Price Index for all urban consumers in the New York and Northeastern
26 New Jersey and the Philadelphia areas as reported by the United States
27 Department of Labor. The adjustment shall become effective on July
28 1 of the year in which it is reported.

29 c. Any purchase, contract or agreement made pursuant to this
30 section may be awarded for a period of [~~12~~] 24 consecutive months,
31 notwithstanding that such [~~12~~] 24 -month period does not coincide
32 with the fiscal year.

33 (cf: P.L.1994, c.48, s.141)

34

35 2. Section 5 of P.L.1982, c.189 (C.18A:64A-25.5) is amended to
36 read as follows:

37 5. Any purchase, contract or agreement of the character described
38 in section 4 may be made, negotiated or awarded by the county college
39 by resolution at a public meeting of its board of trustees without public
40 advertising for bids or bidding therefor if:

41 a. The subject matter thereof consists of:

42 (1) Professional services; or

43 (2) Extraordinary unspecifiable services and products which cannot

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 reasonably be described by written specifications, subject however, to
2 procedures consistent with open public bidding whenever possible; or
- 3 (3) Materials or supplies which are not available from more than
4 one potential bidder, including without limitation materials or supplies
5 which are patented or copyrighted; or
- 6 (4) The doing of any work by employees of the county college; or
- 7 (5) The printing of all legal notices and legal briefs, records and
8 appendices to be used in any legal proceeding to which the county
9 college may be a party; or
- 10 (6) Textbooks, copyrighted materials, student produced
11 publications and services incidental thereto, library materials including
12 without limitation books, periodicals, newspapers, documents,
13 pamphlets, photographs, reproductions, microfilms, pictorial or
14 graphic works, musical scores, maps, charts, globes, sound recordings,
15 slides, films, filmstrips, video and magnetic tapes, other printed or
16 published matter and audiovisual and other materials of a similar
17 nature, necessary binding or rebinding of library materials and
18 specialized library services; or
- 19 (7) Food supplies and services including food supplies and
20 management contracts for student centers, dining rooms and
21 cafeterias; or
- 22 (8) The supplying of any product or the rendering of any service
23 by the public utility which is subject to the jurisdiction of the Board of
24 Public Utilities, in accordance with tariffs and schedules of charges
25 made, charged and exacted, filed with said board; or
- 26 (9) Equipment repair service if in the nature of an extraordinary
27 unspecifiable service and necessary parts furnished in connection with
28 such services; or
- 29 (10) Specialized machinery or equipment of a technical nature
30 which will not reasonably permit the drawing of specifications, and the
31 procurement thereof without advertising is in the public interest; or
- 32 (11) Insurance, including the purchase of insurance coverage and
33 consulting services, which exceptions shall be in accordance with the
34 requirements for extraordinary unspecifiable services; or
- 35 (12) Publishing of legal notices in newspapers, as required by law;
36 or
- 37 (13) The acquisition of artifacts or other items of unique intrinsic,
38 artistic or historic character; or
- 39 (14) The collection of amounts due on student loans, including
40 without limitation loans guaranteed by or made with funds of the
41 United States of America; or
- 42 (15) Professional consulting services; or
- 43 (16) Entertainment, including without limitation theatrical
44 presentations, band and other concerts, movies and other audiovisual
45 productions; or
- 46 (17) Contracts employing funds created by student activities fees

1 charged to students or otherwise raised by students, not under the
2 direct control of the college and expended by student organizations;
3 or

4 (18) Printing, including without limitation catalogs, yearbooks and
5 course announcements; or

6 (19) [Data processing, software programs, systems and service and
7 the rental or lease of data processing equipment] Providing goods or
8 services for the use, support or maintenance of proprietary computer
9 hardware, software peripherals and system development for the
10 hardware ; or

11 (20) Personnel recruitment and advertising, including without
12 limitation advertising seeking student enrollment; or

13 (21) Educational supplies, books, articles of clothing and other
14 miscellaneous articles purchased by a county college bookstore, or by
15 a service or management company under contract with a county
16 college to operate a county college book store for resale to college
17 students and employees; or

18 (22) Purchase or rental of graduation caps and gowns and award
19 certificates or plaques; or

20 (23) Expenses for travel or conferences; or

21 (24) Items available from vendors at costs below State contract
22 pricing for the same product or service, which meets or exceeds the
23 State contract terms or conditions.

24 b. It is to be made or entered into with the United States of
25 America, the State of New Jersey, a county or municipality or any
26 board, body, or officer, agency or authority or any other state or
27 subdivision thereof.

28 c. The county college has advertised for bids pursuant to section
29 4 of P.L.1982, c.189 (C.18A:64A-25.4) on two occasions and (i) has
30 received no bids on both occasions in response to its advertisement, or
31 (ii) has rejected such bids on two occasions because the county college
32 has determined that they are not reasonable as to price, on the basis of
33 cost estimates prepared for or by the county college prior to the
34 advertising therefor, or have not been independently arrived at in open
35 competition, or (iii) on one occasion no bids were received pursuant
36 to (i) and on one occasion all bids were rejected pursuant to (ii), in
37 whatever sequence; any such contract or agreement may then be
38 negotiated by a two-thirds affirmative vote of the authorized
39 membership of the board of trustees authorizing such contract or
40 agreement; provided, however, that:

41 (1) A reasonable effort is [just] made by the contracting agent to
42 determine that the same or equivalent materials or supplies at a cost
43 which is lower than the negotiated price are not available from any
44 agency or authority of the United States, the State of New Jersey or
45 [of] from the county in which the county college is located, or any
46 municipality in close proximity to the county college;

1 (2) The terms, conditions, restrictions and specifications set forth
2 in the negotiated contract or agreement are not substantially different
3 from those which were the subject of competitive bidding pursuant to
4 section 4 of P.L.1982, c.189 (C.18A:64A-25.4); and

5 (3) Any [minor] relevant amendment or modification of any of the
6 terms, conditions, restrictions and specifications, which were the
7 subject of competitive bidding pursuant to section 4 of P.L.1982,
8 c.189 (C.18A:64A-25.4), shall be stated in the resolution awarding
9 such contract or agreement; provided, further, however, that if on the
10 second occasion the bids received are rejected as unreasonable as to
11 price, the county college shall notify each responsible bidder
12 submitting bids on the second occasion of its intention to negotiate
13 and afford each such bidder a reasonable opportunity to negotiate, but
14 the county college shall not award such contract or agreement unless
15 the negotiated price is lower than the lowest rejected bid price
16 submitted on the second occasion by a responsible bidder, is the
17 lowest negotiated price offered by any responsible vendor, and is a
18 reasonable price for such work, materials, supplies or services.

19 Whenever a county college shall determine that a bid was not
20 arrived at independently in open competition pursuant to subsection
21 c. (ii) of this section, it shall thereupon notify the county prosecutor
22 of the county in which the county college is located and the Attorney
23 General of the facts upon which its determination is based and, when
24 appropriate, it may institute appropriate proceedings in any State or
25 federal court of competent jurisdiction for a violation of any State or
26 federal antitrust law or laws relating to the unlawful restraint of trade.
27 (cf: P.L.1994, c.48, s.142)

28
29 3. Section 6 of P.L.1982, c.189 (C.18A:64A-25.6) is amended to
30 read as follows:

31 6. Any purchase, contract, or agreement may be made, negotiated
32 or awarded by a county college without public advertising for bids
33 and bidding therefor, notwithstanding that the cost or contract price
34 will exceed [\$7,500.00] \$25,000 or, commencing January 1, [1985]
35 2003, the amount determined pursuant to subsection b. of section 3 of
36 P.L.1982, c. 189 (C. 18A:64A-25.3), when an emergency affecting the
37 health, safety or welfare of occupants of college property requires the
38 immediate delivery of the materials or supplies or the performance of
39 the work, provided that such purchases, contracts or agreements are
40 awarded or made in the following manner:

41 a. A written requisition for the performance of such work or the
42 furnishing of materials or supplies, certified by the employee in charge
43 of the building, facility or equipment where the emergency occurred,
44 is filed with the contracting agent or his deputy in charge, describing
45 the nature of the emergency, the time of its occurrence, and the need
46 for invoking this section. The contracting agent, or his deputy in

1 charge, being satisfied that the emergency exists, is hereby authorized
2 to award a contract for said work, materials or supplies.

3 b. Upon the furnishing of such work, materials or supplies in
4 accordance with the terms of the contract or agreement, the contractor
5 furnishing such work, materials or supplies shall be entitled to be paid
6 therefor and the county college shall be obligated for said payment.

7 c. The board of trustees may prescribe rules and procedures to
8 implement the requirements of this section.

9 (cf: P.L.1984, c.241, s.4)

10

11 4. Section 10 of P.L.1982, c.189 (C.18A:64A-25.10) is amended
12 to read as follows:

13 10. The board of trustees of two or more county colleges may
14 provide jointly by agreement for the purchasing of work, materials or
15 supplies for their respective colleges, or one or more county colleges
16 may provide for such purchase by joint agreement with the governing
17 bodies of any municipality or of the county within whose boundaries
18 any such college or colleges is or are wholly or partly located and may
19 enter agreements with other institutions of higher education or with
20 other units of government pursuant to the "Local Public Contracts
21 Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

22 (cf: P.L.1982, c.189, s.10)

23

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

26 25. In the preparation of plans and specifications for the
27 construction, alteration or repair of any building by a county college,
28 when the entire cost of the work and materials will exceed
29 ~~[\$7,500.00]~~ \$25,000 or, commencing January 1, ~~[1985]~~ 2003, the
30 amount determined pursuant to subsection b. of section 3 of P.L.1982,
31 c.189 (C.18A:64A-25.3), separate plans and specifications may be
32 prepared for each of the following to include all work and materials
33 related thereto or to be performed or furnished in connection
34 therewith:

35 (a) The plumbing and gas fitting work;

36 (b) The heating and ventilating systems and equipment;

37 (c) The electrical work, including any electrical power plants;

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

39 (e) All other work and materials required for the completion of the
40 project.

41 The contracting agent shall advertise for and receive in the manner
42 provided by law (1) separate bids for each of the foregoing categories
43 (a) through (e), or (2) bids for all work and materials required to
44 complete the entire project, if awarded as a single contract, or (3)
45 both. [All bids submitted shall set forth the name or names of, and
46 evidence of performance security from, all subcontractors to whom

1 the bidder will subcontract the work described in the foregoing
2 categories (a) through (e)] Prior to the award of the contract, the
3 successful bidder shall provide a list of the subcontractors proposed to
4 perform work described in categories (a) through (d), together with
5 evidence of performance security for each of the listed subcontractors.
6 Evidence of performance security may be supplied by the bidder on
7 behalf of himself and any or all subcontractors, or by each respective
8 subcontractor, or by any combination thereof which results in evidence
9 of performance security equaling, but in no event exceeding, the total
10 amount bid .

11 Contracts shall be awarded to the lowest responsible bidder. In the
12 event that a contract is advertised in accordance with (3) above, the
13 contract shall be awarded in the following manner: if the sum total of
14 the amounts bid by the lowest responsible bidder for each category (a)
15 through (e) is less than the amount bid by the lowest responsible
16 bidder for all the work and materials, the county college shall award
17 separate contracts for each of such categories to the lowest
18 responsible bidder therefor, but if the sum total of the amount bid by
19 the lowest responsible bidder for each category is not less than the
20 amount bid by the lowest responsible bidder for all the work and
21 materials, the county college shall award a single contract to the
22 lowest responsible bidder for all of such work and materials. In every
23 case in which a contract is awarded under (2) above, all payments
24 required to be made under the contract for work and materials
25 supplied by a subcontractor shall [, upon the certification of the
26 contractor of the amount due to the subcontractor, be paid directly to
27 the subcontractor] be paid to the contractor, or, pursuant to the
28 written direction of the contractor, to a subcontractor.

29 (cf: P.L.1984, c.241, s.7)

30

31 6. Section 27 of P.L.1982, c.189 (C.18A:64A-25.27) is amended
32 to read as follows:

33 27. Any county college may, by resolution of its board of trustees,
34 authorize the sale in the following manner of its personal property not
35 needed for college purposes:

36 a. If the estimated fair value of the property to be sold exceeds
37 [\$7,500.00] \$25,000 or, commencing January 1, [1985] 2003, the
38 amount determined pursuant to subsection b. of section 3 of
39 P.L.1982, c. 189 (C. 18A:64A-25.3) in any one sale and the property
40 does not consist of perishable goods, it shall be sold at public sale to
41 the highest bidder.

42 b. Notice of the date, time and place of the public sale, together
43 with a description of the items to be sold and the conditions of sale
44 shall be published once in a legal newspaper. Such sales shall be held
45 not less than seven nor more than 14 days after the publication of the
46 notice thereof.

1 c. Personal property may be sold to the United States, the State of
2 New Jersey, another county college or to any body politic by private
3 sale without advertising for bids.

4 d. If no bids are received, the property may then be sold at private
5 sale without further publication or notice thereof but in no event at
6 less than the estimated fair value; or the county college may, if it so
7 elects, reoffer the property at public sale. As used herein, "estimated
8 fair value" means the market value of the property if sold by a willing
9 seller to a willing buyer less the cost to the college of continuing to
10 store or maintain such property.

11 e. A county college may reject all bids if it determines such
12 rejection to be in the public interest. In any case in which the college
13 has rejected all bids, it may readvertise such personal property for a
14 subsequent public sale. If it elects to reject all bids at a second public
15 sale pursuant to this section, it may then sell such personal property
16 without further publication or notice thereof at private sale, provided
17 that in no event shall the negotiated price at the private sale be less
18 than the amount of the highest bid rejected at the preceding two
19 public sales, and provided further that in no event shall the terms or
20 conditions of sale be changed or amended.

21 f. If the estimated fair value of the property to be sold does not
22 exceed [~~\$7,500.00~~] \$25,000 or, commencing January 1, [~~1985~~] 2003,
23 the amount determined pursuant to subsection b. of section 3 of
24 P.L.1982, c.189 (C.18A:64A-25.3) in any one sale or the property
25 consists of perishable goods, it may be sold at private sale without
26 advertising for bids.

27 g. Notwithstanding the provisions of this section, by resolution of
28 the board of trustees, a purchasing agent may include a sale of
29 personal property no longer needed for county college purposes as
30 part of specifications to offset the price of a new purchase.

31 (cf: P.L.1984, c.241, s.8)

32

33 7. Section 28 of P.L.1982, c.189 (C.18A:64A-25.28) is amended
34 to read as follows:

35 28. Duration of certain contracts. A county college may only enter
36 into a contract exceeding [~~12~~] 24 consecutive months for the:

37 a. Supplying of:

38 (1) Fuel for heating purposes for any term not exceeding in the
39 aggregate three years; or

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

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

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

46 d. [Data processing programs, systems and services or rental or

- 1 lease of data processing equipment] Providing goods or services for
2 the use, support or maintenance of proprietary computer hardware,
3 software peripherals and system development for the hardware for any
4 term of not more than five years; or
- 5 e. Insurance, including the purchase of insurance coverages,
6 insurance consultant or administrative services, and including
7 participation in a joint self-insurance fund, risk management programs
8 or related services provided by a county college insurance group, or
9 participation in an insurance fund established by a county pursuant to
10 N.J.S.40A:10-6, for any term of not more than three years; or
- 11 f. Leasing or service of automobiles, motor vehicles, electronic
12 communications equipment, machinery and equipment of every nature
13 and kind for any term not exceeding in the aggregate five years; or
- 14 g. Supplying of any product or rendering of any service by a
15 [telephone] company [which is subject to the jurisdiction of the
16 Board of Public Utilities] providing voice, data, transmission or
17 switching services, for a term not exceeding five years; or
- 18 h. The providing of food supplies and services, including food
19 supplies and management contracts for student centers, dining rooms
20 and cafeterias, for a term not exceeding three years; or
- 21 i. The performance of work or services or the furnishing of
22 materials or supplies for the purpose of conserving energy in buildings
23 owned by, or operations conducted by, the contracting unit, the entire
24 price of which is to be established as a percentage of the resultant
25 savings in energy costs, for a term not exceeding 10 years; provided
26 that a contract is entered into only subject to and in accordance with
27 [rules and regulations adopted] guidelines promulgated by the
28 [Department of Commerce, Energy and Economic Development]
29 Board of Public Utilities establishing a methodology for computing
30 energy cost savings; or
- 31 j. Any single project for the construction, reconstruction or
32 rehabilitation of a public building, structure or facility, or a public
33 works project including the retention of the services of an architect or
34 engineer in connection with the project, for the length of time
35 necessary for the completion of the actual construction; or
- 36 k. The management and operation of bookstores for a term not
37 exceeding five years; or
- 38 l. Custodial or janitorial services for any term not exceeding in the
39 aggregate three years; or
- 40 m. Child care services for a term not exceeding three years; or
41 n. Security services for a term not exceeding three years; or
42 o. Ground maintenance services for a term not exceeding three
43 years; or
- 44 p. Laundering, dry-cleaning or rental of uniforms for a term not
45 exceeding three years.
- 46 All multi-year leases and contracts entered into pursuant to this

1 section, except [contracts for the leasing or servicing of equipment
2 supplied by a telephone company which is subject to the jurisdiction
3 of the Board of Public Utilities, or] contracts and agreements for the
4 provision of work or the supplying of equipment to promote energy
5 conservation and authorized pursuant to subsection i. of this section,
6 and except contracts for insurance coverages, insurance consultant or
7 administrative services, participation or membership in a joint
8 self-insurance fund, risk management programs or related services of
9 a county college insurance group, and participation in an insurance
10 fund established by a county pursuant to N.J.S.40A:10-6 or a joint
11 insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36
12 et seq.), shall contain a clause making them subject to the availability
13 and appropriation annually of sufficient funds to meet the extended
14 obligation or contain an annual cancellation clause.

15 (cf: P.L.1994, c.48, s.144)

16

17 8. This act shall take effect on the first day of the third month after
18 enactment and shall be applicable to purchases, contracts or
19 agreements for which public advertising for bids commenced on or
20 after the effective date of this act.

21

22

23

STATEMENT

24

25 This bill makes various changes to the "County College Contracts
26 Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.).

27 The bill raises to \$25,000 the threshold above which a contract
28 must be publicly advertised and publicly bid. Commencing January 1,
29 2003, and every two years thereafter, the Governor will adjust this
30 amount in proportion to the rise or fall of the Consumer Price Index.

31 The bill makes changes to the section of law that enumerates
32 exemptions to the requirement for public advertising and bidding. The
33 bill exempts contracts that concern: expenses for travel or conferences;
34 items available from vendors at costs below State contract pricing for
35 the same product or service; and the providing of goods or services for
36 the use, support or maintenance of proprietary computer hardware,
37 software peripherals and system development for the hardware.

38 Pursuant to the bill, prior to the award of a contract the successful
39 bidder is required to provide a list of the subcontractors proposed to
40 perform work under the contract. The bill also requires that all
41 payments required to be made under the contract for work and
42 materials supplied by a subcontractor must be paid to the contractor,
43 or, if the contractor provides written direction, to the subcontractor.

44 The bill extends the period for which a contract may be awarded
45 from 12 to 24 months and adds to the list of types of contracts that
46 may exceed the 24-month period. Contracts concerning the supplying

- 1 of child care services, security services, ground maintenance services
- 2 and the laundering, dry-cleaning or rental of uniforms may all be bid
- 3 for a term not exceeding three years.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3282

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 6, 2001

The Assembly Education Committee favorably reports Assembly Bill No. 3282 with committee amendments.

As amended by committee, this bill amends the "County College Contracts Law," P.L.1982, c.189, to make the following changes:

1) raises to \$25,000 the threshold above which a contract must be publicly advertised and publicly bid. Beginning January 1, 2003, and every two years thereafter, the Governor will adjust this amount in proportion to the rise or fall of the Consumer Price Index;

2) exempts from the requirement for public advertising and bidding, contracts that concern expenses for travel or conferences, items available from vendors at costs below State contract pricing for the same product or service, and the providing of goods or services for the use, support or maintenance of proprietary computer hardware, software peripherals and system development for the hardware;

3) extends the period for which a contract may be awarded from 12 to 24 months, and adds to the list of the types of contracts that may exceed the 24-month period contracts concerning the supplying of child care services, security services, ground maintenance services and the laundering, dry-cleaning or rental of uniforms which may all be bid for a term not exceeding three years.

The committee amended the bill to delete: 1) a provision in the bill which revised the manner in which evidence of performance security for the contractor and any subcontractors is supplied to the county college by bidders; and, 2) a provision which revised the manner in which payment is made to subcontractors.

[First Reprint]

ASSEMBLY, No. 3282

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 8, 2001

Sponsored by:

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Monmouth and Ocean)

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

Co-Sponsored by:

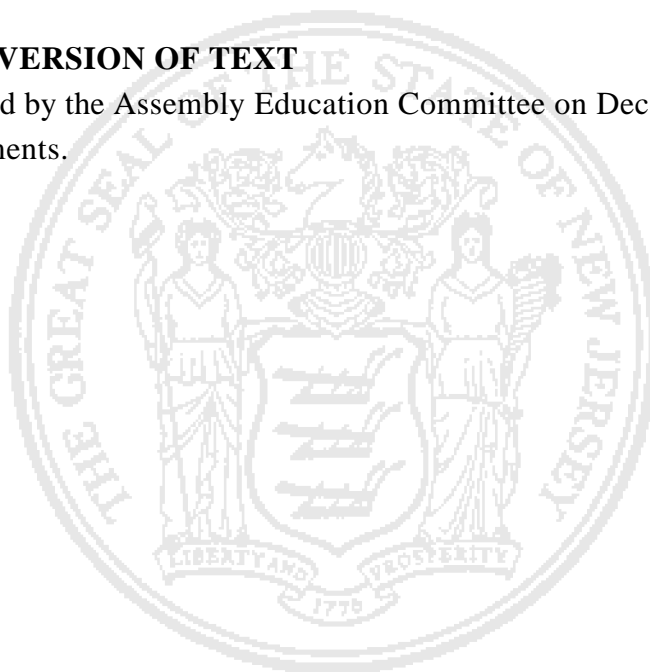
Assemblyman Bateman

SYNOPSIS

Raises threshold for public advertisement of contracts under "County College Contracts Law."

CURRENT VERSION OF TEXT

As reported by the Assembly Education Committee on December 6, 2001, with amendments.



(Sponsorship Updated As Of: 12/18/2001)

1 AN ACT concerning the awarding of county college contracts and
2 amending P.L.1982, c.189.

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

6
7 1. Section 3 of P.L.1982, c.189 (C.18A:64A-25.3) is amended to
8 read as follows:

9 3. a. Any purchase, contract or agreement for the performance of
10 any work or the furnishing or hiring of materials or supplies, the cost
11 or price of which, together with any sums expended for the
12 performance of any work or services in connection with the same
13 project or the furnishing of similar materials or supplies during the
14 same fiscal year, paid with or out of college funds, does not exceed the
15 total sum of [~~\$7,500.00~~] \$25,000 or, commencing January 1, [~~1985~~]
16 2003, the amount determined pursuant to subsection b. of this section
17 in any fiscal year may be made, negotiated and awarded by a
18 contracting agent, when so authorized by resolution of the board of
19 trustees of the county college, without public advertising for bids and
20 bidding therefor.

21 b. Commencing January 1, [~~1985~~] 2003 and every two years
22 thereafter, the Governor, in consultation with the Department of the
23 Treasury, shall adjust the threshold amount set forth in subsection a.
24 of this section in direct proportion to the rise or fall of the Consumer
25 Price Index for all urban consumers in the New York and Northeastern
26 New Jersey and the Philadelphia areas as reported by the United States
27 Department of Labor. The adjustment shall become effective on July
28 1 of the year in which it is reported.

29 c. Any purchase, contract or agreement made pursuant to this
30 section may be awarded for a period of [~~12~~] 24 consecutive months,
31 notwithstanding that such [~~12~~] 24 -month period does not coincide
32 with the fiscal year.

33 (cf: P.L.1994, c.48, s.141)

34

35 2. Section 5 of P.L.1982, c.189 (C.18A:64A-25.5) is amended to
36 read as follows:

37 5. Any purchase, contract or agreement of the character described
38 in section 4 may be made, negotiated or awarded by the county college
39 by resolution at a public meeting of its board of trustees without public
40 advertising for bids or bidding therefor if:

41 a. The subject matter thereof consists 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:

¹ Assembly AED committee amendments adopted December 6, 2001.

- 1 (1) Professional services; or
- 2 (2) Extraordinary unspecifiable services and products which cannot
3 reasonably be described by written specifications, subject however, to
4 procedures consistent with open public bidding whenever possible; or
- 5 (3) Materials or supplies which are not available from more than
6 one potential bidder, including without limitation materials or supplies
7 which are patented or copyrighted; or
- 8 (4) The doing of any work by employees of the county college; or
- 9 (5) The printing of all legal notices and legal briefs, records and
10 appendices to be used in any legal proceeding to which the county
11 college may be a party; or
- 12 (6) Textbooks, copyrighted materials, student produced
13 publications and services incidental thereto, library materials including
14 without limitation books, periodicals, newspapers, documents,
15 pamphlets, photographs, reproductions, microfilms, pictorial or
16 graphic works, musical scores, maps, charts, globes, sound recordings,
17 slides, films, filmstrips, video and magnetic tapes, other printed or
18 published matter and audiovisual and other materials of a similar
19 nature, necessary binding or rebinding of library materials and
20 specialized library services; or
- 21 (7) Food supplies and services including food supplies and
22 management contracts for student centers, dining rooms and
23 cafeterias; or
- 24 (8) The supplying of any product or the rendering of any service
25 by the public utility which is subject to the jurisdiction of the Board of
26 Public Utilities, in accordance with tariffs and schedules of charges
27 made, charged and exacted, filed with said board; or
- 28 (9) Equipment repair service if in the nature of an extraordinary
29 unspecifiable service and necessary parts furnished in connection with
30 such services; or
- 31 (10) Specialized machinery or equipment of a technical nature
32 which will not reasonably permit the drawing of specifications, and the
33 procurement thereof without advertising is in the public interest; or
- 34 (11) Insurance, including the purchase of insurance coverage and
35 consulting services, which exceptions shall be in accordance with the
36 requirements for extraordinary unspecifiable services; or
- 37 (12) Publishing of legal notices in newspapers, as required by law;
38 or
- 39 (13) The acquisition of artifacts or other items of unique intrinsic,
40 artistic or historic character; or
- 41 (14) The collection of amounts due on student loans, including
42 without limitation loans guaranteed by or made with funds of the
43 United States of America; or
- 44 (15) Professional consulting services; or
- 45 (16) Entertainment, including without limitation theatrical
46 presentations, band and other concerts, movies and other audiovisual

1 productions; or

2 (17) Contracts employing funds created by student activities fees
3 charged to students or otherwise raised by students, not under the
4 direct control of the college and expended by student organizations;
5 or

6 (18) Printing, including without limitation catalogs, yearbooks and
7 course announcements; or

8 (19) [Data processing, software programs, systems and service and
9 the rental or lease of data processing equipment] Providing goods or
10 services for the use, support or maintenance of proprietary computer
11 hardware, software peripherals and system development for the
12 hardware ; or

13 (20) Personnel recruitment and advertising, including without
14 limitation advertising seeking student enrollment; or

15 (21) Educational supplies, books, articles of clothing and other
16 miscellaneous articles purchased by a county college bookstore, or by
17 a service or management company under contract with a county
18 college to operate a county college book store for resale to college
19 students and employees; or

20 (22) Purchase or rental of graduation caps and gowns and award
21 certificates or plaques; or

22 (23) Expenses for travel or conferences; or

23 (24) Items available from vendors at costs below State contract
24 pricing for the same product or service, which meets or exceeds the
25 State contract terms or conditions.

26 b. It is to be made or entered into with the United States of
27 America, the State of New Jersey, a county or municipality or any
28 board, body, or officer, agency or authority or any other state or
29 subdivision thereof.

30 c. The county college has advertised for bids pursuant to section
31 4 of P.L.1982, c.189 (C.18A:64A-25.4) on two occasions and (i) has
32 received no bids on both occasions in response to its advertisement, or
33 (ii) has rejected such bids on two occasions because the county college
34 has determined that they are not reasonable as to price, on the basis of
35 cost estimates prepared for or by the county college prior to the
36 advertising therefor, or have not been independently arrived at in open
37 competition, or (iii) on one occasion no bids were received pursuant
38 to (i) and on one occasion all bids were rejected pursuant to (ii), in
39 whatever sequence; any such contract or agreement may then be
40 negotiated by a two-thirds affirmative vote of the authorized
41 membership of the board of trustees authorizing such contract or
42 agreement; provided, however, that:

43 (1) A reasonable effort is [just] made by the contracting agent to
44 determine that the same or equivalent materials or supplies at a cost
45 which is lower than the negotiated price are not available from any
46 agency or authority of the United States, the State of New Jersey or

1 [of] from the county in which the county college is located, or any
2 municipality in close proximity to the county college;

3 (2) The terms, conditions, restrictions and specifications set forth
4 in the negotiated contract or agreement are not substantially different
5 from those which were the subject of competitive bidding pursuant to
6 section 4 of P.L.1982, c.189 (C.18A:64A-25.4); and

7 (3) Any [minor] relevant amendment or modification of any of the
8 terms, conditions, restrictions and specifications, which were the
9 subject of competitive bidding pursuant to section 4 of P.L.1982,
10 c.189 (C.18A:64A-25.4), shall be stated in the resolution awarding
11 such contract or agreement; provided, further, however, that if on the
12 second occasion the bids received are rejected as unreasonable as to
13 price, the county college shall notify each responsible bidder
14 submitting bids on the second occasion of its intention to negotiate
15 and afford each such bidder a reasonable opportunity to negotiate, but
16 the county college shall not award such contract or agreement unless
17 the negotiated price is lower than the lowest rejected bid price
18 submitted on the second occasion by a responsible bidder, is the
19 lowest negotiated price offered by any responsible vendor, and is a
20 reasonable price for such work, materials, supplies or services.

21 Whenever a county college shall determine that a bid was not
22 arrived at independently in open competition pursuant to subsection
23 c. (ii) of this section, it shall thereupon notify the county prosecutor
24 of the county in which the county college is located and the Attorney
25 General of the facts upon which its determination is based and, when
26 appropriate, it may institute appropriate proceedings in any State or
27 federal court of competent jurisdiction for a violation of any State or
28 federal antitrust law or laws relating to the unlawful restraint of trade.
29 (cf: P.L.1994, c.48, s.142)

30

31 3. Section 6 of P.L.1982, c.189 (C.18A:64A-25.6) is amended to
32 read as follows:

33 6. Any purchase, contract, or agreement may be made, negotiated
34 or awarded by a county college without public advertising for bids
35 and bidding therefor, notwithstanding that the cost or contract price
36 will exceed [~~\$7,500.00~~] \$25,000 or, commencing January 1, [~~1985~~]
37 2003, the amount determined pursuant to subsection b. of section 3 of
38 P.L.1982, c. 189 (C. 18A:64A-25.3), when an emergency affecting the
39 health, safety or welfare of occupants of college property requires the
40 immediate delivery of the materials or supplies or the performance of
41 the work, provided that such purchases, contracts or agreements are
42 awarded or made in the following manner:

43 a. A written requisition for the performance of such work or the
44 furnishing of materials or supplies, certified by the employee in charge
45 of the building, facility or equipment where the emergency occurred,
46 is filed with the contracting agent or his deputy in charge, describing

1 the nature of the emergency, the time of its occurrence, and the need
2 for invoking this section. The contracting agent, or his deputy in
3 charge, being satisfied that the emergency exists, is hereby authorized
4 to award a contract for said work, materials or supplies.

5 b. Upon the furnishing of such work, materials or supplies in
6 accordance with the terms of the contract or agreement, the contractor
7 furnishing such work, materials or supplies shall be entitled to be paid
8 therefor and the county college shall be obligated for said payment.

9 c. The board of trustees may prescribe rules and procedures to
10 implement the requirements of this section.

11 (cf: P.L.1984, c.241, s.4)

12

13 4. Section 10 of P.L.1982, c.189 (C.18A:64A-25.10) is amended
14 to read as follows:

15 10. The board of trustees of two or more county colleges may
16 provide jointly by agreement for the purchasing of work, materials or
17 supplies for their respective colleges, or one or more county colleges
18 may provide for such purchase by joint agreement with the governing
19 bodies of any municipality or of the county within whose boundaries
20 any such college or colleges is or are wholly or partly located and may
21 enter agreements with other institutions of higher education or with
22 other units of government pursuant to the "Local Public Contracts
23 Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

24 (cf: P.L.1982, c.189, s.10)

25

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

28 25. In the preparation of plans and specifications for the
29 construction, alteration or repair of any building by a county college,
30 when the entire cost of the work and materials will exceed
31 ~~[\$7,500.00]~~ \$25,000 or, commencing January 1, ~~[1985]~~ 2003, the
32 amount determined pursuant to subsection b. of section 3 of P.L.1982,
33 c.189 (C.18A:64A-25.3), separate plans and specifications may be
34 prepared for each of the following to include all work and materials
35 related thereto or to be performed or furnished in connection
36 therewith:

37 (a) The plumbing and gas fitting work;

38 (b) The heating and ventilating systems and equipment;

39 (c) The electrical work, including any electrical power plants;

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

41 (e) All other work and materials required for the completion of the
42 project.

43 The contracting agent shall advertise for and receive in the manner
44 provided by law (1) separate bids for each of the foregoing categories
45 (a) through (e), or (2) bids for all work and materials required to
46 complete the entire project, if awarded as a single contract, or (3)

1 both. [All bids submitted shall set forth the name or names of, and
2 evidence of performance security from, all subcontractors to whom
3 the bidder will subcontract the work described in the foregoing
4 categories (a) through (e)] ¹[Prior to the award of the contract, the
5 successful bidder shall provide a list of the subcontractors proposed to
6 perform work described in categories (a) through (d), together with
7 evidence of performance security for each of the listed 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 respective
10 subcontractor, or by any combination thereof which results in evidence
11 of performance security equaling, but in no event exceeding, the total
12 amount bid] All bids submitted shall set forth the name or names of,
13 and evidence of performance security from, all subcontractors to
14 whom the bidder will subcontract the work described in the foregoing
15 categories (a) through (e)¹.

16 Contracts shall be awarded to the lowest responsible bidder. In the
17 event that a contract is advertised in accordance with (3) above, the
18 contract shall be awarded in the following manner: if the sum total of
19 the amounts bid by the lowest responsible bidder for each category (a)
20 through (e) is less than the amount bid by the lowest responsible
21 bidder for all the work and materials, the county college shall award
22 separate contracts for each of such categories to the lowest
23 responsible bidder therefor, but if the sum total of the amount bid by
24 the lowest responsible bidder for each category is not less than the
25 amount bid by the lowest responsible bidder for all the work and
26 materials, the county college shall award a single contract to the
27 lowest responsible bidder for all of such work and materials. In every
28 case in which a contract is awarded under (2) above, all payments
29 required to be made under the contract for work and materials
30 supplied by a subcontractor shall [, upon the certification of the
31 contractor of the amount due to the subcontractor, be paid directly to
32 the subcontractor] ¹[be paid to the contractor, or, pursuant to the
33 written direction of the contractor, to a subcontractor] , upon the
34 certification of the contractor of the amount due to the subcontractor,
35 be paid directly to the subcontractor¹.

36 (cf: P.L.1984, c.241, s.7)

37

38 6. Section 27 of P.L.1982, c.189 (C.18A:64A-25.27) is amended
39 to read as follows:

40 27. Any county college may, by resolution of its board of trustees,
41 authorize the sale in the following manner of its personal property not
42 needed for college purposes:

43 a. If the estimated fair value of the property to be sold exceeds
44 [\$7,500.00] \$25,000 or, commencing January 1, [1985] 2003, the
45 amount determined pursuant to subsection b. of section 3 of
46 P.L.1982, c. 189 (C. 18A:64A-25.3) in any one sale and the property

1 does not consist of perishable goods, it shall be sold at public sale to
2 the highest bidder.

3 b. Notice of the date, time and place of the public sale, together
4 with a description of the items to be sold and the conditions of sale
5 shall be published once in a legal newspaper. Such sales shall be held
6 not less than seven nor more than 14 days after the publication of the
7 notice thereof.

8 c. Personal property may be sold to the United States, the State of
9 New Jersey, another county college or to any body politic by private
10 sale without advertising for bids.

11 d. If no bids are received, the property may then be sold at private
12 sale without further publication or notice thereof but in no event at
13 less than the estimated fair value; or the county college may, if it so
14 elects, reoffer the property at public sale. As used herein, "estimated
15 fair value" means the market value of the property if sold by a willing
16 seller to a willing buyer less the cost to the college of continuing to
17 store or maintain such property.

18 e. A county college may reject all bids if it determines such
19 rejection to be in the public interest. In any case in which the college
20 has rejected all bids, it may readvertise such personal property for a
21 subsequent public sale. If it elects to reject all bids at a second public
22 sale pursuant to this section, it may then sell such personal property
23 without further publication or notice thereof at private sale, provided
24 that in no event shall the negotiated price at the private sale be less
25 than the amount of the highest bid rejected at the preceding two
26 public sales, and provided further that in no event shall the terms or
27 conditions of sale be changed or amended.

28 f. If the estimated fair value of the property to be sold does not
29 exceed [~~\$7,500.00~~] ~~\$25,000~~ or, commencing January 1, [~~1985~~] ~~2003~~,
30 the amount determined pursuant to subsection b. of section 3 of
31 P.L.1982, c.189 (C.18A:64A-25.3) in any one sale or the property
32 consists of perishable goods, it may be sold at private sale without
33 advertising for bids.

34 g. Notwithstanding the provisions of this section, by resolution of
35 the board of trustees, a purchasing agent may include a sale of
36 personal property no longer needed for county college purposes as
37 part of specifications to offset the price of a new purchase.

38 (cf: P.L.1984, c.241, s.8)

39

40 7. Section 28 of P.L.1982, c.189 (C.18A:64A-25.28) is amended
41 to read as follows:

42 28. Duration of certain contracts. A county college may only enter
43 into a contract exceeding [~~12~~] ~~24~~ consecutive months for the:

44 a. Supplying of:

45 (1) Fuel for heating purposes for any term not exceeding in the
46 aggregate three years; or

- 1 (2) Fuel or oil for use in automobiles, autobuses, motor vehicles or
2 equipment for any term not exceeding in the aggregate three years; or
3 b. Plowing and removal of snow and ice for any term not exceeding
4 in the aggregate three years; or
5 c. Collection and disposal of garbage and refuse for any term not
6 exceeding in the aggregate three years; or
7 d. [Data processing programs, systems and services or rental or
8 lease of data processing equipment] Providing goods or services for
9 the use, support or maintenance of proprietary computer hardware,
10 software peripherals and system development for the hardware for any
11 term of not more than five years; or
12 e. Insurance, including the purchase of insurance coverages,
13 insurance consultant or administrative services, and including
14 participation in a joint self-insurance fund, risk management programs
15 or related services provided by a county college insurance group, or
16 participation in an insurance fund established by a county pursuant to
17 N.J.S.40A:10-6, for any term of not more than three years; or
18 f. Leasing or service of automobiles, motor vehicles, electronic
19 communications equipment, machinery and equipment of every nature
20 and kind for any term not exceeding in the aggregate five years; or
21 g. Supplying of any product or rendering of any service by a
22 [telephone] company [which is subject to the jurisdiction of the
23 Board of Public Utilities] providing voice, data, transmission or
24 switching services, for a term not exceeding five years; or
25 h. The providing of food supplies and services, including food
26 supplies and management contracts for student centers, dining rooms
27 and cafeterias, for a term not exceeding three years; or
28 i. The performance of work or services or the furnishing of
29 materials or supplies for the purpose of conserving energy in buildings
30 owned by, or operations conducted by, the contracting unit, the entire
31 price of which is to be established as a percentage of the resultant
32 savings in energy costs, for a term not exceeding 10 years; provided
33 that a contract is entered into only subject to and in accordance with
34 [rules and regulations adopted] guidelines promulgated by the
35 [Department of Commerce, Energy and Economic Development]
36 Board of Public Utilities establishing a methodology for computing
37 energy cost savings; or
38 j. Any single project for the construction, reconstruction or
39 rehabilitation of a public building, structure or facility, or a public
40 works project including the retention of the services of an architect or
41 engineer in connection with the project, for the length of time
42 necessary for the completion of the actual construction; or
43 k. The management and operation of bookstores for a term not
44 exceeding five years; or
45 l. Custodial or janitorial services for any term not exceeding in the
46 aggregate three years; or

- 1 m. Child care services for a term not exceeding three years; or
- 2 n. Security services for a term not exceeding three years; or
- 3 o. Ground maintenance services for a term not exceeding three
- 4 years; or
- 5 p. Laundering, dry-cleaning or rental of uniforms for a term not
- 6 exceeding three years.

7 All multi-year leases and contracts entered into pursuant to this
8 section, except [contracts for the leasing or servicing of equipment
9 supplied by a telephone company which is subject to the jurisdiction
10 of the Board of Public Utilities, or] contracts and agreements for the
11 provision of work or the supplying of equipment to promote energy
12 conservation and authorized pursuant to subsection i. of this section,
13 and except contracts for insurance coverages, insurance consultant or
14 administrative services, participation or membership in a joint
15 self-insurance fund, risk management programs or related services of
16 a county college insurance group, and participation in an insurance
17 fund established by a county pursuant to N.J.S.40A:10-6 or a joint
18 insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36
19 et seq.), shall contain a clause making them subject to the availability
20 and appropriation annually of sufficient funds to meet the extended
21 obligation or contain an annual cancellation clause.

22 (cf: P.L.1994, c.48, s.144)

23

24 8. This act shall take effect on the first day of the third month after
25 enactment and shall be applicable to purchases, contracts or
26 agreements for which public advertising for bids commenced on or
27 after the effective date of this act.

LEGISLATIVE FISCAL ESTIMATE
[First Reprint]
ASSEMBLY, No. 3282
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: DECEMBER 21, 2001

SUMMARY

Synopsis: Raises threshold for public advertisement of contracts under "County College Contracts Law."
Type of Impact: Cost savings for New Jersey's county colleges.
Agencies Affected: County colleges.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
County College Savings	Indeterminate-See Comments Below		

- ! This bill amends the "County College Contracts Law," P.L. 1982, c.189, to: raise to \$25,000 the threshold above which a contract must be publicly advertised and publicly bid; exempt certain items from the requirement for public advertising and bidding; extend the period for which a contract may be awarded from 12 to 24 months; and add to the list of contracts certain types that may exceed the 24-month period.
- ! According to information provided by the New Jersey Council of County Colleges, the passage of this bill could save the county colleges at least \$50,000 annually in printing, advertising and distribution costs. In addition, the council anticipates that by increasing the amount of time a contract may be awarded from 12 to 24 months, the bill may expand the pool of bidders with the increased competition resulting in greater cost savings to the colleges.

BILL DESCRIPTION

Assembly Bill No. 3282 (1R) of 2001 amends the "County College Contracts Law," P.L. 1982, c.189, to make the following changes:

- 1) raise to \$25,000 the threshold above which a contract must be publicly advertised and publicly bid. Beginning January 1, 2003, and every two years thereafter, the Governor will adjust this amount in proportion to the rise or fall of the Consumer Price Index;
- 2) exempt from the requirement for public advertising and bidding, contracts that concern expenses for travel or conferences, items available from vendors at costs below State contract

pricing for the same product or service, and the providing of goods or services for the use, support or maintenance of proprietary computer hardware, software peripherals and system development for the hardware;

3) extend the period for which a contract may be awarded from 12 to 24 months, and add to the list of the types of contract that may exceed the 24-month period contracts concerning the supplying of child care services, security services, ground maintenance services and the laundering, dry-cleaning or rental of uniforms which may all be bid for a term not exceeding three years.

FISCAL ANALYSIS

EXECUTIVE BRANCH

According to information informally provided by the New Jersey Council of County Colleges, the passage of this bill could save each county college at least \$50,000 annually in printing, advertising and distribution costs. In addition, the council anticipates that by increasing the amount of time a contract may be awarded from 12 to 24 months, the bill may expand the pool of bidders with the increased competition resulting in greater cost savings to the colleges.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) concurs with the estimate provided by the New Jersey Council of County Colleges. OLS notes, however, that it is not possible to actually quantify the cost savings to the county colleges that this bill may generate. Those savings could only be determined through actual experience of implementing changes in contracting procedures.

Section: *Education*

Analyst: *Cindy Grant*
Associate Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

P.L. 2001, CHAPTER 281, *approved December 27, 2001*
Senate, No. 2380 (*First Reprint*)

1 **AN ACT** concerning the awarding of county college contracts and
2 amending P.L.1982, c.189.

3

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

6

7 1. Section 3 of P.L.1982, c.189 (C.18A:64A-25.3) is amended to
8 read as follows:

9 3. a. Any purchase, contract or agreement for the performance of
10 any work or the furnishing or hiring of materials or supplies, the cost
11 or price of which, together with any sums expended for the
12 performance of any work or services in connection with the same
13 project or the furnishing of similar materials or supplies during the
14 same fiscal year, paid with or out of college funds, does not exceed the
15 total sum of [~~\$7,500.00~~] \$25,000 or, commencing January 1, [~~1985~~]
16 2003, the amount determined pursuant to subsection b. of this section
17 in any fiscal year may be made, negotiated and awarded by a
18 contracting agent, when so authorized by resolution of the board of
19 trustees of the county college, without public advertising for bids and
20 bidding therefor.

21 b. Commencing January 1, [~~1985~~] 2003 and every two years
22 thereafter, the Governor, in consultation with the Department of the
23 Treasury, shall adjust the threshold amount set forth in subsection a.
24 of this section in direct proportion to the rise or fall of the Consumer
25 Price Index for all urban consumers in the New York and Northeastern
26 New Jersey and the Philadelphia areas as reported by the United States
27 Department of Labor. The adjustment shall become effective on July
28 1 of the year in which it is reported.

29 c. Any purchase, contract or agreement made pursuant to this
30 section may be awarded for a period of [~~12~~] 24 consecutive months,
31 notwithstanding that such [~~12~~] 24 -month period does not coincide
32 with the fiscal year.

33 (cf: P.L.1994, c.48, s.141)

34

35 2. Section 5 of P.L.1982, c.189 (C.18A:64A-25.5) is amended to
36 read as follows:

37 5. Any purchase, contract or agreement of the character described
38 in section 4 may be made, negotiated or awarded by the county college
39 by resolution at a public meeting of its board of trustees without public

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 Senate SED committee amendments adopted December 13, 2001.

- 1 advertising for bids or bidding therefor if:
- 2 a. The subject matter thereof consists of:
- 3 (1) Professional services; or
- 4 (2) Extraordinary unspecifiable services and products which cannot
- 5 reasonably be described by written specifications, subject however, to
- 6 procedures consistent with open public bidding whenever possible; or
- 7 (3) Materials or supplies which are not available from more than
- 8 one potential bidder, including without limitation materials or supplies
- 9 which are patented or copyrighted; or
- 10 (4) The doing of any work by employees of the county college; or
- 11 (5) The printing of all legal notices and legal briefs, records and
- 12 appendices to be used in any legal proceeding to which the county
- 13 college may be a party; or
- 14 (6) Textbooks, copyrighted materials, student produced
- 15 publications and services incidental thereto, library materials including
- 16 without limitation books, periodicals, newspapers, documents,
- 17 pamphlets, photographs, reproductions, microfilms, pictorial or
- 18 graphic works, musical scores, maps, charts, globes, sound recordings,
- 19 slides, films, filmstrips, video and magnetic tapes, other printed or
- 20 published matter and audiovisual and other materials of a similar
- 21 nature, necessary binding or rebinding of library materials and
- 22 specialized library services; or
- 23 (7) Food supplies and services including food supplies and
- 24 management contracts for student centers, dining rooms and
- 25 cafeterias; or
- 26 (8) The supplying of any product or the rendering of any service
- 27 by the public utility which is subject to the jurisdiction of the Board of
- 28 Public Utilities, in accordance with tariffs and schedules of charges
- 29 made, charged and exacted, filed with said board; or
- 30 (9) Equipment repair service if in the nature of an extraordinary
- 31 unspecifiable service and necessary parts furnished in connection with
- 32 such services; or
- 33 (10) Specialized machinery or equipment of a technical nature
- 34 which will not reasonably permit the drawing of specifications, and the
- 35 procurement thereof without advertising is in the public interest; or
- 36 (11) Insurance, including the purchase of insurance coverage and
- 37 consulting services, which exceptions shall be in accordance with the
- 38 requirements for extraordinary unspecifiable services; or
- 39 (12) Publishing of legal notices in newspapers, as required by law;
- 40 or
- 41 (13) The acquisition of artifacts or other items of unique intrinsic,
- 42 artistic or historic character; or
- 43 (14) The collection of amounts due on student loans, including
- 44 without limitation loans guaranteed by or made with funds of the
- 45 United States of America; or
- 46 (15) Professional consulting services; or

1 (16) Entertainment, including without limitation theatrical
2 presentations, band and other concerts, movies and other audiovisual
3 productions; or

4 (17) Contracts employing funds created by student activities fees
5 charged to students or otherwise raised by students, not under the
6 direct control of the college and expended by student organizations;
7 or

8 (18) Printing, including without limitation catalogs, yearbooks and
9 course announcements; or

10 (19) [Data processing, software programs, systems and service and
11 the rental or lease of data processing equipment] Providing goods or
12 services for the use, support or maintenance of proprietary computer
13 hardware, software peripherals and system development for the
14 hardware ; or

15 (20) Personnel recruitment and advertising, including without
16 limitation advertising seeking student enrollment; or

17 (21) Educational supplies, books, articles of clothing and other
18 miscellaneous articles purchased by a county college bookstore, or by
19 a service or management company under contract with a county
20 college to operate a county college book store for resale to college
21 students and employees; or

22 (22) Purchase or rental of graduation caps and gowns and award
23 certificates or plaques; or

24 (23) Expenses for travel or conferences; or

25 (24) Items available from vendors at costs below State contract
26 pricing for the same product or service, which meets or exceeds the
27 State contract terms or conditions.

28 b. It is to be made or entered into with the United States of
29 America, the State of New Jersey, a county or municipality or any
30 board, body, or officer, agency or authority or any other state or
31 subdivision thereof.

32 c. The county college has advertised for bids pursuant to section
33 4 of P.L.1982, c.189 (C.18A:64A-25.4) on two occasions and (i) has
34 received no bids on both occasions in response to its advertisement, or
35 (ii) has rejected such bids on two occasions because the county college
36 has determined that they are not reasonable as to price, on the basis of
37 cost estimates prepared for or by the county college prior to the
38 advertising therefor, or have not been independently arrived at in open
39 competition, or (iii) on one occasion no bids were received pursuant
40 to (i) and on one occasion all bids were rejected pursuant to (ii), in
41 whatever sequence; any such contract or agreement may then be
42 negotiated by a two-thirds affirmative vote of the authorized
43 membership of the board of trustees authorizing such contract or
44 agreement; provided, however, that:

45 (1) A reasonable effort is [just] made by the contracting agent to
46 determine that the same or equivalent materials or supplies at a cost

1 which is lower than the negotiated price are not available from any
2 agency or authority of the United States, the State of New Jersey or
3 **[of] from** the county in which the county college is located, or any
4 municipality in close proximity to the county college;

5 (2) The terms, conditions, restrictions and specifications set forth
6 in the negotiated contract or agreement are not substantially different
7 from those which were the subject of competitive bidding pursuant to
8 section 4 of P.L.1982, c.189 (C.18A:64A-25.4); and

9 (3) Any **[minor] relevant** amendment or modification of any of the
10 terms, conditions, restrictions and specifications, which were the
11 subject of competitive bidding pursuant to section 4 of P.L.1982,
12 c.189 (C.18A:64A-25.4), shall be stated in the resolution awarding
13 such contract or agreement; provided, further, however, that if on the
14 second occasion the bids received are rejected as unreasonable as to
15 price, the county college shall notify each responsible bidder
16 submitting bids on the second occasion of its intention to negotiate
17 and afford each such bidder a reasonable opportunity to negotiate, but
18 the county college shall not award such contract or agreement unless
19 the negotiated price is lower than the lowest rejected bid price
20 submitted on the second occasion by a responsible bidder, is the
21 lowest negotiated price offered by any responsible vendor, and is a
22 reasonable price for such work, materials, supplies or services.

23 Whenever a county college shall determine that a bid was not
24 arrived at independently in open competition pursuant to subsection
25 c. (ii) of this section, it shall thereupon notify the county prosecutor
26 of the county in which the county college is located and the Attorney
27 General of the facts upon which its determination is based and, when
28 appropriate, it may institute appropriate proceedings in any State or
29 federal court of competent jurisdiction for a violation of any State or
30 federal antitrust law or laws relating to the unlawful restraint of trade.
31 (cf: P.L.1994, c.48, s.142)

32
33 3. Section 6 of P.L.1982, c.189 (C.18A:64A-25.6) is amended to
34 read as follows:

35 6. Any purchase, contract, or agreement may be made, negotiated
36 or awarded by a county college without public advertising for bids
37 and bidding therefor, notwithstanding that the cost or contract price
38 will exceed **[\$7,500.00] \$25,000** or, commencing January 1, **[1985]**
39 **2003**, the amount determined pursuant to subsection b. of section 3 of
40 P.L.1982, c. 189 (C. 18A:64A-25.3), when an emergency affecting the
41 health, safety or welfare of occupants of college property requires the
42 immediate delivery of the materials or supplies or the performance of
43 the work, provided that such purchases, contracts or agreements are
44 awarded or made in the following manner:

45 a. A written requisition for the performance of such work or the
46 furnishing of materials or supplies, certified by the employee in charge

1 of the building, facility or equipment where the emergency occurred,
2 is filed with the contracting agent or his deputy in charge, describing
3 the nature of the emergency, the time of its occurrence, and the need
4 for invoking this section. The contracting agent, or his deputy in
5 charge, being satisfied that the emergency exists, is hereby authorized
6 to award a contract for said work, materials or supplies.

7 b. Upon the furnishing of such work, materials or supplies in
8 accordance with the terms of the contract or agreement, the contractor
9 furnishing such work, materials or supplies shall be entitled to be paid
10 therefor and the county college shall be obligated for said payment.

11 c. The board of trustees may prescribe rules and procedures to
12 implement the requirements of this section.

13 (cf: P.L.1984, c.241, s.4)

14

15 4. Section 10 of P.L.1982, c.189 (C.18A:64A-25.10) is amended
16 to read as follows:

17 10. The board of trustees of two or more county colleges may
18 provide jointly by agreement for the purchasing of work, materials or
19 supplies for their respective colleges, or one or more county colleges
20 may provide for such purchase by joint agreement with the governing
21 bodies of any municipality or of the county within whose boundaries
22 any such college or colleges is or are wholly or partly located and may
23 enter agreements with other institutions of higher education or with
24 other units of government pursuant to the "Local Public Contracts
25 Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

26 (cf: P.L.1982, c.189, s.10)

27

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

30 25. In the preparation of plans and specifications for the
31 construction, alteration or repair of any building by a county college,
32 when the entire cost of the work and materials will exceed
33 ~~[\$7,500.00]~~ \$25,000 or, commencing January 1, ~~[1985]~~ 2003, the
34 amount determined pursuant to subsection b. of section 3 of P.L.1982,
35 c.189 (C.18A:64A-25.3), separate plans and specifications may be
36 prepared for each of the following to include all work and materials
37 related thereto or to be performed or furnished in connection
38 therewith:

39 (a) The plumbing and gas fitting work;

40 (b) The heating and ventilating systems and equipment;

41 (c) The electrical work, including any electrical power plants;

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

43 (e) All other work and materials required for the completion of the
44 project.

45 The contracting agent shall advertise for and receive in the manner
46 provided by law (1) separate bids for each of the foregoing categories

1 (a) through (e), or (2) bids for all work and materials required to
 2 complete the entire project, if awarded as a single contract, or (3)
 3 both. [All bids submitted shall set forth the name or names of, and
 4 evidence of performance security from, all subcontractors to whom
 5 the bidder will subcontract the work described in the foregoing
 6 categories (a) through (e)] ¹[Prior to the award of the contract, the
 7 successful bidder shall provide a list of the subcontractors proposed to
 8 perform work described in categories (a) through (d), together with
 9 evidence of performance security for each of the listed subcontractors.
 10 Evidence of performance security may be supplied by the bidder on
 11 behalf of himself and any or all subcontractors, or by each respective
 12 subcontractor, or by any combination thereof which results in evidence
 13 of performance security equaling, but in no event exceeding, the total
 14 amount bid] All bids submitted shall set forth the name or names of,
 15 and evidence of performance security from, all subcontractors to
 16 whom the bidder will subcontract the work described in the foregoing
 17 categories (a) through (e)¹.

18 Contracts shall be awarded to the lowest responsible bidder. In the
 19 event that a contract is advertised in accordance with (3) above, the
 20 contract shall be awarded in the following manner: if the sum total of
 21 the amounts bid by the lowest responsible bidder for each category (a)
 22 through (e) is less than the amount bid by the lowest responsible
 23 bidder for all the work and materials, the county college shall award
 24 separate contracts for each of such categories to the lowest
 25 responsible bidder therefor, but if the sum total of the amount bid by
 26 the lowest responsible bidder for each category is not less than the
 27 amount bid by the lowest responsible bidder for all the work and
 28 materials, the county college shall award a single contract to the
 29 lowest responsible bidder for all of such work and materials. In every
 30 case in which a contract is awarded under (2) above, all payments
 31 required to be made under the contract for work and materials
 32 supplied by a subcontractor shall [, upon the certification of the
 33 contractor of the amount due to the subcontractor, be paid directly to
 34 the subcontractor] ¹[be paid to the contractor, or, pursuant to the
 35 written direction of the contractor, to a subcontractor] , upon the
 36 certification of the contractor of the amount due to the subcontractor,
 37 be paid directly to the subcontractor¹.

38 (cf: P.L.1984, c.241, s.7)

39

40 6. Section 27 of P.L.1982, c.189 (C.18A:64A-25.27) is amended
 41 to read as follows:

42 27. Any county college may, by resolution of its board of trustees,
 43 authorize the sale in the following manner of its personal property not
 44 needed for college purposes:

45 a. If the estimated fair value of the property to be sold exceeds
 46 [\$7,500.00] \$25,000 or, commencing January 1, [1985] 2003, the

1 amount determined pursuant to subsection b. of section 3 of
2 P.L.1982, c. 189 (C. 18A:64A-25.3) in any one sale and the property
3 does not consist of perishable goods, it shall be sold at public sale to
4 the highest bidder.

5 b. Notice of the date, time and place of the public sale, together
6 with a description of the items to be sold and the conditions of sale
7 shall be published once in a legal newspaper. Such sales shall be held
8 not less than seven nor more than 14 days after the publication of the
9 notice thereof.

10 c. Personal property may be sold to the United States, the State of
11 New Jersey, another county college or to any body politic by private
12 sale without advertising for bids.

13 d. If no bids are received, the property may then be sold at private
14 sale without further publication or notice thereof but in no event at
15 less than the estimated fair value; or the county college may, if it so
16 elects, reoffer the property at public sale. As used herein, "estimated
17 fair value" means the market value of the property if sold by a willing
18 seller to a willing buyer less the cost to the college of continuing to
19 store or maintain such property.

20 e. A county college may reject all bids if it determines such
21 rejection to be in the public interest. In any case in which the college
22 has rejected all bids, it may readvertise such personal property for a
23 subsequent public sale. If it elects to reject all bids at a second public
24 sale pursuant to this section, it may then sell such personal property
25 without further publication or notice thereof at private sale, provided
26 that in no event shall the negotiated price at the private sale be less
27 than the amount of the highest bid rejected at the preceding two
28 public sales, and provided further that in no event shall the terms or
29 conditions of sale be changed or amended.

30 f. If the estimated fair value of the property to be sold does not
31 exceed ~~[\$7,500.00]~~ \$25,000 or, commencing January 1, ~~[1985]~~ 2003,
32 the amount determined pursuant to subsection b. of section 3 of
33 P.L.1982, c.189 (C.18A:64A-25.3) in any one sale or the property
34 consists of perishable goods, it may be sold at private sale without
35 advertising for bids.

36 g. Notwithstanding the provisions of this section, by resolution of
37 the board of trustees, a purchasing agent may include a sale of
38 personal property no longer needed for county college purposes as
39 part of specifications to offset the price of a new purchase.

40 (cf: P.L.1984, c.241, s.8)

41

42 7. Section 28 of P.L.1982, c.189 (C.18A:64A-25.28) is amended
43 to read as follows:

44 28. Duration of certain contracts. A county college may only enter
45 into a contract exceeding ~~[12]~~ 24 consecutive months for the:

46 a. Supplying of:

- 1 (1) Fuel for heating purposes for any term not exceeding in the
2 aggregate three years; or
- 3 (2) Fuel or oil for use in automobiles, autobuses, motor vehicles or
4 equipment for any term not exceeding in the aggregate three years; or
- 5 b. Plowing and removal of snow and ice for any term not exceeding
6 in the aggregate three years; or
- 7 c. Collection and disposal of garbage and refuse for any term not
8 exceeding in the aggregate three years; or
- 9 d. [Data processing programs, systems and services or rental or
10 lease of data processing equipment] Providing goods or services for
11 the use, support or maintenance of proprietary computer hardware,
12 software peripherals and system development for the hardware for any
13 term of not more than five years; or
- 14 e. Insurance, including the purchase of insurance coverages,
15 insurance consultant or administrative services, and including
16 participation in a joint self-insurance fund, risk management programs
17 or related services provided by a county college insurance group, or
18 participation in an insurance fund established by a county pursuant to
19 N.J.S.40A:10-6, for any term of not more than three years; or
- 20 f. Leasing or service of automobiles, motor vehicles, electronic
21 communications equipment, machinery and equipment of every nature
22 and kind for any term not exceeding in the aggregate five years; or
- 23 g. Supplying of any product or rendering of any service by a
24 [telephone] company [which is subject to the jurisdiction of the
25 Board of Public Utilities] providing voice, data, transmission or
26 switching services, for a term not exceeding five years; or
- 27 h. The providing of food supplies and services, including food
28 supplies and management contracts for student centers, dining rooms
29 and cafeterias, for a term not exceeding three years; or
- 30 i. The performance of work or services or the furnishing of
31 materials or supplies for the purpose of conserving energy in buildings
32 owned by, or operations conducted by, the contracting unit, the entire
33 price of which is to be established as a percentage of the resultant
34 savings in energy costs, for a term not exceeding 10 years; provided
35 that a contract is entered into only subject to and in accordance with
36 [rules and regulations adopted] guidelines promulgated by the
37 [Department of Commerce, Energy and Economic Development]
38 Board of Public Utilities establishing a methodology for computing
39 energy cost savings; or
- 40 j. Any single project for the construction, reconstruction or
41 rehabilitation of a public building, structure or facility, or a public
42 works project including the retention of the services of an architect or
43 engineer in connection with the project, for the length of time
44 necessary for the completion of the actual construction; or
- 45 k. The management and operation of bookstores for a term not
46 exceeding five years; or

- 1 l. Custodial or janitorial services for any term not exceeding in the
- 2 aggregate three years; or
- 3 m. Child care services for a term not exceeding three years; or
- 4 n. Security services for a term not exceeding three years; or
- 5 o. Ground maintenance services for a term not exceeding three
- 6 years; or
- 7 p. Laundering, dry-cleaning or rental of uniforms for a term not
- 8 exceeding three years.

9 All multi-year leases and contracts entered into pursuant to this
10 section, except [contracts for the leasing or servicing of equipment
11 supplied by a telephone company which is subject to the jurisdiction
12 of the Board of Public Utilities, or] contracts and agreements for the
13 provision of work or the supplying of equipment to promote energy
14 conservation and authorized pursuant to subsection i. of this section,
15 and except contracts for insurance coverages, insurance consultant or
16 administrative services, participation or membership in a joint
17 self-insurance fund, risk management programs or related services of
18 a county college insurance group, and participation in an insurance
19 fund established by a county pursuant to N.J.S.40A:10-6 or a joint
20 insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36
21 et seq.), shall contain a clause making them subject to the availability
22 and appropriation annually of sufficient funds to meet the extended
23 obligation or contain an annual cancellation clause.

24 (cf: P.L.1994, c.48, s.144)

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26 8. This act shall take effect on the first day of the third month after
27 enactment and shall be applicable to purchases, contracts or
28 agreements for which public advertising for bids commenced on or
29 after the effective date of this act.

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34 _____
35 Raises threshold for public advertisement of contracts under "County
College Contracts Law."

CHAPTER 281

AN ACT concerning the awarding of county college contracts and amending P.L.1982, c.189.

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

1. Section 3 of P.L.1982, c.189 (C.18A:64A-25.3) is amended to read as follows:

C.18A:64A-25.3 Purchases, contracts and agreements not requiring advertising.

3. a. Any purchase, contract or agreement for the performance of any work or the furnishing or hiring of materials or supplies, the cost or price of which, together with any sums expended for the performance of any work or services in connection with the same project or the furnishing of similar materials or supplies during the same fiscal year, paid with or out of college funds, does not exceed the total sum of \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of this section in any fiscal year may be made, negotiated and awarded by a contracting agent, when so authorized by resolution of the board of trustees of the county college, without public advertising for bids and bidding therefor.

b. Commencing January 1, 2003 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in subsection a. of this section in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York and Northeastern New Jersey and the Philadelphia areas as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which it is reported.

c. Any purchase, contract or agreement made pursuant to this section may be awarded for a period of 24 consecutive months, notwithstanding that such 24 -month period does not coincide with the fiscal year.

2. Section 5 of P.L.1982, c.189 (C.18A:64A-25.5) is amended to read as follows:

C.18A:64A-25.5 Exceptions to requirement for advertising.

5. Any purchase, contract or agreement of the character described in section 4 may be made, negotiated or awarded by the county college by resolution at a public meeting of its board of trustees without public advertising for bids or bidding therefor if:

a. The subject matter thereof consists of:

(1) Professional services; or
(2) Extraordinary unspecifiable services and products which cannot reasonably be described by written specifications, subject however, to procedures consistent with open public bidding whenever possible; or

(3) Materials or supplies which are not available from more than one potential bidder, including without limitation materials or supplies which are patented or copyrighted; or

(4) The doing of any work by employees of the county college; or

(5) The printing of all legal notices and legal briefs, records and appendices to be used in any legal proceeding to which the county college may be a party; or

(6) Textbooks, copyrighted materials, student produced publications and services incidental thereto, library materials including without limitation books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials and specialized library services; or

(7) Food supplies and services including food supplies and management contracts for student centers, dining rooms and cafeterias; or

(8) The supplying of any product or the rendering of any service by the public utility which is subject to the jurisdiction of the Board of Public Utilities, in accordance with tariffs and schedules of charges made, charged and exacted, filed with said board; or

(9) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such services; or

(10) Specialized machinery or equipment of a technical nature which will not reasonably permit the drawing of specifications, and the procurement thereof without advertising is in the public interest; or

(11) Insurance, including the purchase of insurance coverage and consulting services, which exceptions shall be in accordance with the requirements for extraordinary unspecifiable services; or

(12) Publishing of legal notices in newspapers, as required by law; or

(13) The acquisition of artifacts or other items of unique intrinsic, artistic or historic character; or

(14) The collection of amounts due on student loans, including without limitation loans guaranteed by or made with funds of the United States of America; or

(15) Professional consulting services; or

(16) Entertainment, including without limitation theatrical presentations, band and other concerts, movies and other audiovisual productions; or

(17) Contracts employing funds created by student activities fees charged to students or otherwise raised by students, not under the direct control of the college and expended by student organizations; or

(18) Printing, including without limitation catalogs, yearbooks and course announcements; or

(19) Providing goods or services for the use, support or maintenance of proprietary computer hardware, software peripherals and system development for the hardware; or

(20) Personnel recruitment and advertising, including without limitation advertising seeking student enrollment; or

(21) Educational supplies, books, articles of clothing and other miscellaneous articles purchased by a county college bookstore, or by a service or management company under contract with a county college to operate a county college book store for resale to college students and employees; or

(22) Purchase or rental of graduation caps and gowns and award certificates or plaques; or

(23) Expenses for travel or conferences; or

(24) Items available from vendors at costs below State contract pricing for the same product or service, which meets or exceeds the State contract terms or conditions.

b. It is to be made or entered into with the United States of America, the State of New Jersey, a county or municipality or any board, body, or officer, agency or authority or any other state or subdivision thereof.

c. The county college has advertised for bids pursuant to section 4 of P.L.1982, c.189 (C.18A:64A-25.4) on two occasions and (i) has received no bids on both occasions in response to its advertisement, or (ii) has rejected such bids on two occasions because the county college has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the county college prior to the advertising therefor, or have not been independently arrived at in open competition, or (iii) on one occasion no bids were received pursuant to (i) and on one occasion all bids were rejected pursuant to (ii), in whatever sequence; any such contract or agreement may then be negotiated by a two-thirds affirmative vote of the authorized membership of the board of trustees authorizing such contract or agreement; provided, however, that:

(1) A reasonable effort is made by the contracting agent to determine that the same or equivalent materials or supplies at a cost which is lower than the negotiated price are not available from any agency or authority of the United States, the State of New Jersey or from the county in which the county college is located, or any municipality in close proximity to the county college;

(2) The terms, conditions, restrictions and specifications set forth in the negotiated contract or agreement are not substantially different from those which were the subject of competitive bidding pursuant to section 4 of P.L.1982, c.189 (C.18A:64A-25.4); and

(3) Any relevant amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of P.L.1982, c.189 (C.18A:64A-25.4), shall be stated in the resolution awarding such contract or agreement; provided, further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the county college shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate and afford each such bidder a reasonable

opportunity to negotiate, but the county college shall not award such contract or agreement unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible vendor, and is a reasonable price for such work, materials, supplies or services.

Whenever a county college shall determine that a bid was not arrived at independently in open competition pursuant to subsection c. (ii) of this section, it shall thereupon notify the county prosecutor of the county in which the county college is located and the Attorney General of the facts upon which its determination is based and, when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

3. Section 6 of P.L.1982, c.189 (C.18A:64A-25.6) is amended to read as follows:

C.18A:64A-25.6 Emergency purchases and contracts.

6. Any purchase, contract, or agreement may be made, negotiated or awarded by a county college without public advertising for bids and bidding therefor, notwithstanding that the cost or contract price will exceed \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c.189 (C.18A:64A-25.3), when an emergency affecting the health, safety or welfare of occupants of college property requires the immediate delivery of the materials or supplies or the performance of the work, provided that such purchases, contracts or agreements are awarded or made in the following manner:

a. A written requisition for the performance of such work or the furnishing of materials or supplies, certified by the employee in charge of the building, facility or equipment where the emergency occurred, is filed with the contracting agent or his deputy in charge, describing the nature of the emergency, the time of its occurrence, and the need for invoking this section. The contracting agent, or his deputy in charge, being satisfied that the emergency exists, is hereby authorized to award a contract for said work, materials or supplies.

b. Upon the furnishing of such work, materials or supplies in accordance with the terms of the contract or agreement, the contractor furnishing such work, materials or supplies shall be entitled to be paid therefor and the county college shall be obligated for said payment.

c. The board of trustees may prescribe rules and procedures to implement the requirements of this section.

4. Section 10 of P.L.1982, c.189 (C.18A:64A-25.10) is amended to read as follows:

C.18A:64A-25.10 Joint purchases by county colleges, municipalities or counties; authority.

10. The board of trustees of two or more county colleges may provide jointly by agreement for the purchasing of work, materials or supplies for their respective colleges, or one or more county colleges may provide for such purchase by joint agreement with the governing bodies of any municipality or of the county within whose boundaries any such college or colleges is or are wholly or partly located and may enter agreements with other institutions of higher education or with other units of government pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

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

C.18A:64A-25.25 Cost over threshold level separate plans and specifications; bids; advertisement; award of contract; payment to subcontractor.

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

(a) The plumbing and gas fitting work;

- (b) The heating and ventilating systems and equipment;
- (c) The electrical work, including any electrical power plants;
- (d) The structural steel and ornamental iron work;
- (e) All other work and materials required for the completion of the project.

The contracting agent shall advertise for and receive in the manner provided by law (1) separate bids for each of the foregoing categories (a) through (e), or (2) bids for all work and materials required to complete the entire project, if awarded as a single contract, or (3) both. All bids submitted shall set forth the name or names of, and evidence of performance security from, all subcontractors to whom the bidder will subcontract the work described in the foregoing categories (a) through (e).

Contracts shall be awarded to the lowest responsible bidder. In the event that a contract is advertised in accordance with (3) above, the contract shall be awarded in the following manner: if the sum total of the amounts bid by the lowest responsible bidder for each category (a) through (e) is less than the amount bid by the lowest responsible bidder for all the work and materials, the county college shall award separate contracts for each of such categories to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each category is not less than the amount bid by the lowest responsible bidder for all the work and materials, the county college shall award a single contract to the lowest responsible bidder for all of such work and materials. In every case in which a contract is awarded under (2) above, all payments required to be made under the contract for work and materials supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.

6. Section 27 of P.L.1982, c.189 (C.18A:64A-25.27) is amended to read as follows:

C.18A:64A-25.27 Authorization; resolution; method.

27. Any county college may, by resolution of its board of trustees, authorize the sale in the following manner of its personal property not needed for college purposes:

a. If the estimated fair value of the property to be sold exceeds \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c. 189 (C. 18A:64A-25.3) in any one sale and the property does not consist of perishable goods, it shall be sold at public sale to the highest bidder.

b. Notice of the date, time and place of the public sale, together with a description of the items to be sold and the conditions of sale shall be published once in a legal newspaper. Such sales shall be held not less than seven nor more than 14 days after the publication of the notice thereof.

c. Personal property may be sold to the United States, the State of New Jersey, another county college or to any body politic by private sale without advertising for bids.

d. If no bids are received, the property may then be sold at private sale without further publication or notice thereof but in no event at less than the estimated fair value; or the county college may, if it so elects, reoffer the property at public sale. As used herein, "estimated fair value" means the market value of the property if sold by a willing seller to a willing buyer less the cost to the college of continuing to store or maintain such property.

e. A county college may reject all bids if it determines such rejection to be in the public interest. In any case in which the college has rejected all bids, it may readvertise such personal property for a subsequent public sale. If it elects to reject all bids at a second public sale pursuant to this section, it may then sell such personal property without further publication or notice thereof at private sale, provided that in no event shall the negotiated price at the private sale be less than the amount of the highest bid rejected at the preceding two public sales, and provided further that in no event shall the terms or conditions of sale be changed or amended.

f. If the estimated fair value of the property to be sold does not exceed \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c.189 (C.18A:64A-25.3) in any one sale or the property consists of perishable goods, it may be sold at private sale without advertising for bids.

g. Notwithstanding the provisions of this section, by resolution of the board of trustees, a

purchasing agent may include a sale of personal property no longer needed for county college purposes as part of specifications to offset the price of a new purchase.

7. Section 28 of P.L.1982, c.189 (C.18A:64A-25.28) is amended to read as follows:

28. Duration of certain contracts. A county college may only enter into a contract exceeding 24 consecutive months for the:

- a. Supplying of:
 - (1) Fuel for heating purposes for any term not exceeding in the aggregate three years; or
 - (2) Fuel or oil for use in automobiles, autobuses, motor vehicles or equipment for any term not exceeding in the aggregate three years; or
- b. Plowing and removal of snow and ice for any term not exceeding in the aggregate three years; or
- c. Collection and disposal of garbage and refuse for any term not exceeding in the aggregate three years; or
- d. Providing goods or services for the use, support or maintenance of proprietary computer hardware, software peripherals and system development for the hardware for any term of not more than five years; or
- e. Insurance, including the purchase of insurance coverages, insurance consultant or administrative services, and including participation in a joint self-insurance fund, risk management programs or related services provided by a county college insurance group, or participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6, for any term of not more than three years; or
- f. Leasing or service of automobiles, motor vehicles, electronic communications equipment, machinery and equipment of every nature and kind for any term not exceeding in the aggregate five years; or
- g. Supplying of any product or rendering of any service by a company providing voice, data, transmission or switching services, for a term not exceeding five years; or
- h. The providing of food supplies and services, including food supplies and management contracts for student centers, dining rooms and cafeterias, for a term not exceeding three years; or
- i. The performance of work or services or the furnishing of materials or supplies for the purpose of conserving energy in buildings owned by, or operations conducted by, the contracting unit, the entire price of which is to be established as a percentage of the resultant savings in energy costs, for a term not exceeding 10 years; provided that a contract is entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings; or
- j. Any single project for the construction, reconstruction or rehabilitation of a public building, structure or facility, or a public works project including the retention of the services of an architect or engineer in connection with the project, for the length of time necessary for the completion of the actual construction; or
- k. The management and operation of bookstores for a term not exceeding five years; or
- l. Custodial or janitorial services for any term not exceeding in the aggregate three years; or
- m. Child care services for a term not exceeding three years; or
- n. Security services for a term not exceeding three years; or
- o. Ground maintenance services for a term not exceeding three years; or
- p. Laundering, dry-cleaning or rental of uniforms for a term not exceeding three years.

All multi-year leases and contracts entered into pursuant to this section, except contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation and authorized pursuant to subsection i. of this section, and except contracts for insurance coverages, insurance consultant or administrative services, participation or membership in a joint self-insurance fund, risk management programs or related services of a county college insurance group, and participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6 or a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), shall contain a clause making them subject to the availability and appropriation annually

of sufficient funds to meet the extended obligation or contain an annual cancellation clause.

8. This act shall take effect on the first day of the third month after enactment and shall be applicable to purchases, contracts or agreements for which public advertising for bids commenced on or after the effective date of this act.

Approved December 27, 2001.