

18A:18A-5

LEGISLATIVE HISTORY CHECKLIST

NJSA: 18A:18A-5 (School contracts - certain - award without bid if State contracts exists)

LAWS OF: 1983

CHAPTER: 48

Bill No.: S1614

Sponsor(s): Dumont, Feldman and Ewing

Date Introduced: July 12, 1982

Committee: Assembly: Education

Senate: Education

Amended during passage Yes

// Amendments during passage denoted by asterisks. Substituted for A1741 (not attached since identical to S1614)

Date of Passage: Assembly: Dec. 13, 1982

Senate: Nov. 8, 1982

Date of Approval: Jan. 31, 1983

Following statements are attached if available:

Sponsor statement:		Yes	//
Committee statement:	Assembly	///	No
	Senate	Yes	//
Fiscal Note:		///	No
Veto Message		///	No
Message on Signing:		Yes	//
Following were printed:			
Reports:		Yes	//
Hearings:		///	No

Report, referred to in statements:

974.90 New Jersey. Commission on Business Efficiency of the Public Schools.
S372 Financial Management Subcommittee.

1982 Public School district purchasing programs in New Jersey: a review of specific issues and problems. August, 1982. Trenton, 1982.
(See pp.1, 2, 4, 14-17)

(over)

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See also:

974.90 **New Jersey. Task Force on Business Efficiency of the Public Schools.**
S372 **Modern financial management '78: on update for New Jersey**
1978 **school districts. March, 1978.**
 (See pp.7-8)

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SENATE, No. 1614

STATE OF NEW JERSEY

INTRODUCED JULY 12, 1982

By Senators DUMONT, FELDMAN and EWING

Referred to Committee on Education

AN ACT concerning exceptions to the requirement for advertising for bids pursuant to the "Public School Contracts Law," and amending N. J. S. 18A:18A-5.

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

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

2 18A:18A-5. Exceptions to requirement for advertising. Any
3 purchase, contract or agreement of the character described in
4 N. J. S. 18A:18A-4 may be made, negotiated or awarded by the
5 board of education by resolution at a public meeting without public
6 advertising for bids and bidding therefor if

7 a. The subject matter thereof consists of:

8 (1) Professional services;

9 (2) Extraordinary unspecifiable services which cannot reason-
10 ably be described by written specifications, which exception as to
11 extraordinary unspecifiable services shall be construed narrowly in
12 favor of open competitive bidding where possible and the State
13 Board of Education is authorized to establish rules and regula-
14 tions limiting its use in accordance with the intention herein
15 expressed; and the board of education shall in each instance state
16 supporting reasons for its action in the resolution awarding the
17 contract for extraordinary unspecifiable services;

18 (3) The doing of any work by employees of the contracting unit;

19 (4) The printing of all legal notices; and legal briefs, records
20 and appendices to be used in any legal proceeding in which the
21 contracting party may be a party;

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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted October 18, 1982.

22 (5) Textbooks, copyrighted materials, kindergarten supplies,
23 and student produced publications and services incidental thereto;

24 (6) Food supplies, including food supplies for home economic
25 classes, when purchased pursuant to rules and regulations of the
26 State board and in accordance with the provisions of N. J. S.
27 18A:18A-6;

28 (7) The supplying of any product or the rendering of any service
29 by a public utility, which is subject to the jurisdiction of the Board
30 of Public Utility Commissioners, in accordance with the tariffs and
31 schedules of charges made, charged and exacted, filed with said
32 board;

33 (8) The printing of bonds and documents necessary to the issu-
34 ance and sale thereof by a board of education;

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

38 (10) Insurance, including the purchase of insurance coverage
39 and consultant services;

40 (11) Publishing of legal notices in newspapers as required by
41 law;

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

44 (13) Election expenses, including advertising expenses inci-
45 dental thereto***[.]*** *,*

45A *(14) *Electronic data processing service obtained from another*
45B *board of education.**

46 b. It is to be made or entered into with the United States of
47 America, the State of New Jersey, county or municipality or any
48 board, body, officer, agency or authority or any other state or sub-
49 division thereof.

50 c. The board of education has advertised for bids pursuant to
51 N. J. S. 18A:18A-4 on two occasions and has received no bids in
52 response to its advertisement and, after reasonable inquiry, it is
53 determined that no board, body, officer, agency or authority of the
54 United States, or of the State of New Jersey or of any county or
55 municipality in which the board of education is located is willing
56 and able to perform any work or furnish or hire any materials or
57 supplies in conformity with the specifications of the board of
58 education. Any such contract or agreement entered into pursuant
59 to this subsection c. may be made, negotiated or awarded only upon
60 adoption of a resolution by the affirmative vote of two-thirds of
61 the full membership of the board of education at a meeting thereof
62 authorizing such a contract or agreement. Any amendment or

63 modification of the terms, conditions, restrictions and specifications
64 which were the subject of the competitive bidding pursuant to
65 N. J. S. 18A:18A-4 shall be stated in the resolution awarding the
66 contract.

67 d. The board of education has advertised for bids pursuant to
68 N. J. S. 18A:18A-4 on two occasions and has rejected such bids on
69 each occasion because the board of education has determined that
70 they are not reasonable as to price on the basis of cost estimates
71 prepared for the board of education prior to the advertising
72 therefor or have not been independently arrived at in open compe-
73 tition, but no such contract or agreement may be entered into after
74 such rejection of bids, unless:

75 (1) Notification of the intention to negotiate and a reasonable
76 opportunity to negotiate shall have been given by the board of
77 education to each responsible bidder;

78 (2) The negotiated price is lower than the lowest rejected bid
79 price of a responsible bidder who bid thereon and is the lowest
80 negotiated price offered by any responsible supplier and is a rea-
81 sonable price for such work, materials, supplies or services;

82 (3) Any amendment or modification of the terms, conditions,
83 restrictions and specifications which were the subject of competitive
84 bidding pursuant to N. J. S. 18A:18A-4 shall be stated in the reso-
85 lution awarding the contract; and

86 (4) The negotiated price is lower than the price of the same or
87 equivalent materials or supplies available from the State, county
88 or municipality in which the board of education is located.

89 Whenever a board of education shall determine that a bid was
90 not arrived at independently in open competition pursuant to this
91 subsection 4 of N. J. S. 18A:18A-5, it shall thereupon notify the
92 county prosecutor of the county in which the board of education is
93 located and the Attorney General of the facts upon which its
94 determination is based, and when appropriate, it may institute
95 appropriate proceedings in any State or federal court of compe-
96 tent jurisdiction for a violation of any State or federal antitrust
97 law or laws relating to the unlawful restraint of trade.

98 *e. The board of education has solicited and received at least*
99 *three quotations on materials, supplies or equipment for which a*
100 *State contract has been issued pursuant to N. J. S. 18A:18A-10,*
101 *and the lowest responsible quotation is at least 10% less than the*
102 *price the board would be charged for the identical material, supplies*
103 *or equipment, in the same quantities, under the State contract.*

104 Any such contract or agreement entered into pursuant to this
105 subsection d. or subsection e. may be made, negotiated or awarded

106 only upon adoption of a resolution by the affirmative vote of two-
107 thirds of the full membership of the board of education at a meeting
108 thereof authorizing such a contract or agreement.

1 2. This act shall take effect immediately.

STATEMENT

This bill allow boards of education to award contracts for materials, equipment and supplies for which there is an existing State contract, without advertising or receiving bids if they solicit and receive at least three quotations, and the lowest responsible quotation is at least 10% less than the State contract price for identical goods in the same quantities.

This bill is one of a series of bills implementing the July, 1982 report of the Financial Management Subcommittee of the Commission on Business Efficiency of the Public Schools.

51614(1982)

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 1614

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 18, 1982

PROVISIONS:

This bill allows boards of education to award contracts for materials, equipment and supplies for which there is an existing State contract, without advertising or receiving bids if they solicit and receive at least three quotations, and the lowest responsible quotation is at least 10% less than the State contract price for identical goods in the same quantities.

BACKGROUND:

This bill is one of a series of bills implementing the July, 1982 report of the Financial Management Subcommittee of the Commission on Business Efficiency of the Public Schools.

This would enable larger districts to obtain a lower price or discount based on volume without having to go to the expense of advertising bids.

COMMITTEE AMENDMENTS:

The committee amendments are technical and are intended to conform this bill to Assembly Bill No. 273 OCR which has passed both houses and is before the Governor.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATELY

CONTACT: PAUL WOLCOTT

MONDAY, JANUARY 31, 1983

Governor Thomas H. Kean today signed the following bill:

S-1614, sponsored by Senator Wayne Dumont, Jr. (R-Warren-Sussex), which allows Boards of Education to award contracts for materials, equipment and supplies for which there is an existing State contract, without advertising or receiving bids if they solicit and receive at least three quotations, and the lowest responsible quotation is at least ten percent less than the State contract price for identical goods in the same quantities. The bill permits larger school districts to obtain a lower price or discount based on volume without incurring the expense of advertising bids.

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