

# 18A:64-76.2 & 18A:64-76.4

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2013                    **CHAPTER:** 147

**NJSA:** 18A:64-76.2 & 18A:64-76.4 (Permits contractor in certain construction contracts with State college to choose between a retainage deduction from monthly progress payments or depositing a bond; allows 2% retainage deduction of amount due on each partial payment)

**BILL NO:** S2737                    (Substituted for A4217)

**SPONSOR(S)** Sweeney and others

**DATE INTRODUCED:** April 29, 2013

**COMMITTEE:**                    **ASSEMBLY:** ---

**SENATE:** Higher Education

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**                    **ASSEMBLY:** June 24, 2013

**SENATE:** June 24, 2013

**DATE OF APPROVAL:** August 19, 2013

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (Introduced version of bill enacted) Yes

#### S2737

**SPONSOR'S STATEMENT** (Begins on page 3 of introduced bill): Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

**SENATE:** Yes

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

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

#### A4217

**SPONSOR'S STATEMENT:** (Begins on page 3 introduced bill): Yes

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

**SENATE:** No

(continued)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

LAW/KR

P.L.2013, CHAPTER 147, *approved August 19, 2013*  
Senate, No. 2737

1 AN ACT concerning contracting by State colleges and  
2 supplementing P.L.1986, c.43 (C.18A:64-52 et seq.).  
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:  
6

7 1. Whenever any contract, the total price of which exceeds  
8 \$100,000, entered into by a State college, for the construction,  
9 reconstruction, alteration or repair of any building, structure,  
10 facility or other improvement to real property, requires the  
11 withholding of payment of a percentage of the amount of the  
12 contract, the contractor may agree to the withholding of payments  
13 in the manner prescribed in the contract, or may deposit with the  
14 State college registered book bonds, entry municipal bonds, State  
15 bonds or other appropriate bonds of the State of New Jersey, or  
16 negotiable bearer bonds or notes of any political subdivision of the  
17 State, the value of which is equal to the amount necessary to satisfy  
18 the amount that otherwise would be withheld pursuant to the terms  
19 of the contract. The nature and amount of the bonds or notes to be  
20 deposited shall be subject to approval by the State college. For  
21 purposes of this section, "value" shall mean par value or current  
22 market value, whichever is lower.

23 If the contractor agrees to the withholding of payments, the  
24 amount withheld shall be deposited, with a banking institution or  
25 savings and loan association insured by an agency of the Federal  
26 government, in an account bearing interest at the rate currently paid  
27 by such institutions or associations on time or savings deposits. The  
28 amount withheld, or the bonds or notes deposited, and any interest  
29 accruing on such bonds or notes, shall be returned to the contractor  
30 upon fulfillment of the terms of the contract relating to such  
31 withholding. Any interest accruing on cash payments withheld  
32 shall be credited to the State college.  
33

34 2. Any contract, the total price of which exceeds \$100,000,  
35 entered into by a State college involving the construction,  
36 reconstruction, alteration, repair or maintenance of any building,  
37 structure, facility or other improvement to real property, shall  
38 provide for partial payments to be made at least once each month as  
39 the work progresses, unless the contractor shall agree to deposit  
40 bonds with the State college pursuant to section 1 of P.L. ,  
41 c. (C. ) (pending before the Legislature as this bill).

1 3. a. With respect to any contract entered into by a State  
2 college pursuant to section 2 of P.L. , c. (C. ) (pending before  
3 the Legislature as this bill) for which the contractor shall agree to  
4 the withholding of payments pursuant to section 1 of P.L. ,  
5 c. (C. ) (pending before the Legislature as this bill), 2% of the  
6 amount due on each partial payment shall be withheld by the State  
7 college pending completion of the contract.

8 b. Upon acceptance of the work performed pursuant to the  
9 contract for which the contractor has agreed to the withholding of  
10 payments pursuant to subsection a. of this section, all amounts  
11 being withheld by the State college shall be released and paid in full  
12 to the contractor within 45 days of the final acceptance date agreed  
13 upon by the contractor and the State college, without further  
14 withholding of any amounts for any purpose whatsoever, provided  
15 that the contract has been completed as indicated. If the State  
16 college requires maintenance security after acceptance of the work  
17 performed pursuant to the contract, such security shall be obtained  
18 in the form of a maintenance bond. The maintenance bond shall be  
19 no longer than two years and shall be no more than 100% of the  
20 project costs.

21  
22 4. This act shall take effect immediately.  
23  
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25 STATEMENT  
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27 This bill supplements the "State College Contracts Law,"  
28 P.L.1986, c.43 (C.18A:64-52 et seq.), and applies to any State  
29 college contract for over \$100,000 which involves the construction,  
30 reconstruction, alteration or repair of any building, structure,  
31 facility or other improvement to real property. Under the  
32 provisions of this bill, whenever a contract of this type requires the  
33 withholding of payment of a percentage of the amount of the  
34 contract, the contractor would have the choice of either agreeing to  
35 a retainage deduction from each monthly progress payment, or the  
36 contractor could choose to deposit bonds in the amount necessary to  
37 satisfy the amount that otherwise would be withheld under the  
38 contract. If a contractor chooses a retainage deduction from each  
39 monthly payment, then the retainage would be limited to 2% of the  
40 amount due on each partial payment.

41 Upon acceptance of the work performed pursuant to the contract  
42 for which the contractor has agreed to a retainage deduction, all  
43 amounts being withheld by the State college must be paid in full to  
44 the contractor within 45 days of the final acceptance date agreed  
45 upon by the contractor and the State college. The bill provides that  
46 if the State college requires maintenance security after acceptance  
47 of the work performed under the contract, the security must be  
48 obtained in the form of a maintenance bond, which is required to be

1 no longer than two years and no more than 100% of the project  
2 costs.

3 The provisions of this bill are similar to provisions in the “Local  
4 Public Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.) and  
5 the “Public School Contracts Law,” P.L.1977, c.114 (C.18A:18A-1  
6 et seq.).

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11 \_\_\_\_\_  
12 Permits contractor in certain construction contracts with State  
13 college to choose between a retainage deduction from monthly  
14 progress payments or depositing a bond; allows 2% retainage  
deduction of amount due on each partial payment.

# SENATE, No. 2737

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED APRIL 29, 2013

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**  
**District 3 (Cumberland, Gloucester and Salem)**  
**Senator KEVIN J. O'TOOLE**  
**District 40 (Bergen, Essex, Morris and Passaic)**  
**Assemblyman LOUIS D. GREENWALD**  
**District 6 (Burlington and Camden)**  
**Assemblyman DAVID P. RIBLE**  
**District 30 (Monmouth and Ocean)**

**Co-Sponsored by:**

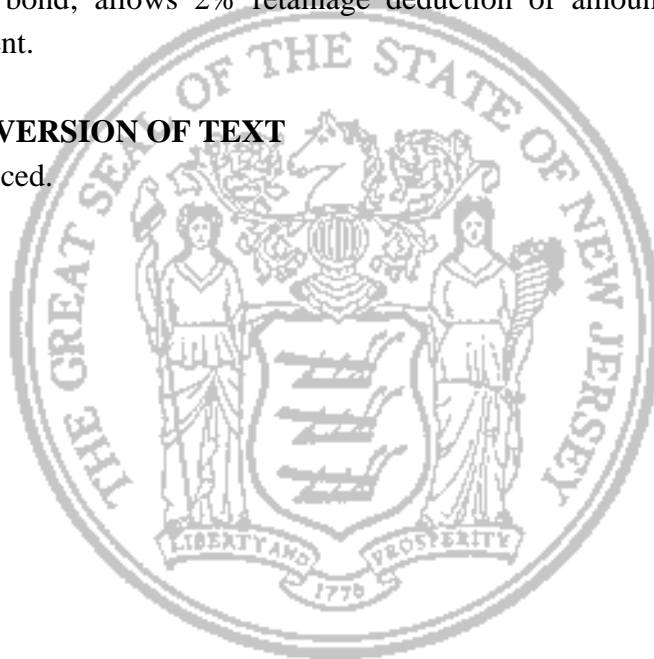
**Assemblywoman Simon and Assemblyman DiMaio**

**SYNOPSIS**

Permits contractor in certain construction contracts with State college to choose between a retainage deduction from monthly progress payments or depositing a bond; allows 2% retainage deduction of amount due on each partial payment.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/25/2013)**

1 AN ACT concerning contracting by State colleges and  
2 supplementing P.L.1986, c.43 (C.18A:64-52 et seq.).  
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:  
6

7 1. Whenever any contract, the total price of which exceeds  
8 \$100,000, entered into by a State college, for the construction,  
9 reconstruction, alteration or repair of any building, structure,  
10 facility or other improvement to real property, requires the  
11 withholding of payment of a percentage of the amount of the  
12 contract, the contractor may agree to the withholding of payments  
13 in the manner prescribed in the contract, or may deposit with the  
14 State college registered book bonds, entry municipal bonds, State  
15 bonds or other appropriate bonds of the State of New Jersey, or  
16 negotiable bearer bonds or notes of any political subdivision of the  
17 State, the value of which is equal to the amount necessary to satisfy  
18 the amount that otherwise would be withheld pursuant to the terms  
19 of the contract. The nature and amount of the bonds or notes to be  
20 deposited shall be subject to approval by the State college. For  
21 purposes of this section, "value" shall mean par value or current  
22 market value, whichever is lower.

23 If the contractor agrees to the withholding of payments, the  
24 amount withheld shall be deposited, with a banking institution or  
25 savings and loan association insured by an agency of the Federal  
26 government, in an account bearing interest at the rate currently paid  
27 by such institutions or associations on time or savings deposits. The  
28 amount withheld, or the bonds or notes deposited, and any interest  
29 accruing on such bonds or notes, shall be returned to the contractor  
30 upon fulfillment of the terms of the contract relating to such  
31 withholding. Any interest accruing on cash payments withheld  
32 shall be credited to the State college.  
33

34 2. Any contract, the total price of which exceeds \$100,000,  
35 entered into by a State college involving the construction,  
36 reconstruction, alteration, repair or maintenance of any building,  
37 structure, facility or other improvement to real property, shall  
38 provide for partial payments to be made at least once each month as  
39 the work progresses, unless the contractor shall agree to deposit  
40 bonds with the State college pursuant to section 1 of P.L. ,  
41 c. (C. ) (pending before the Legislature as this bill).  
42

43 3. a. With respect to any contract entered into by a State  
44 college pursuant to section 2 of P.L. , c. (C. ) (pending before  
45 the Legislature as this bill) for which the contractor shall agree to  
46 the withholding of payments pursuant to section 1 of P.L. ,  
47 c. (C. ) (pending before the Legislature as this bill), 2% of the

1 amount due on each partial payment shall be withheld by the State  
2 college pending completion of the contract.

3 b. Upon acceptance of the work performed pursuant to the  
4 contract for which the contractor has agreed to the withholding of  
5 payments pursuant to subsection a. of this section, all amounts  
6 being withheld by the State college shall be released and paid in full  
7 to the contractor within 45 days of the final acceptance date agreed  
8 upon by the contractor and the State college, without further  
9 withholding of any amounts for any purpose whatsoever, provided  
10 that the contract has been completed as indicated. If the State  
11 college requires maintenance security after acceptance of the work  
12 performed pursuant to the contract, such security shall be obtained  
13 in the form of a maintenance bond. The maintenance bond shall be  
14 no longer than two years and shall be no more than 100% of the  
15 project costs.

16

17 4. This act shall take effect immediately.

18

19

#### STATEMENT

20

21 This bill supplements the "State College Contracts Law,"  
22 P.L.1986, c.43 (C.18A:64-52 et seq.), and applies to any State  
23 college contract for over \$100,000 which involves the construction,  
24 reconstruction, alteration or repair of any building, structure,  
25 facility or other improvement to real property. Under the  
26 provisions of this bill, whenever a contract of this type requires the  
27 withholding of payment of a percentage of the amount of the  
28 contract, the contractor would have the choice of either agreeing to  
29 a retainage deduction from each monthly progress payment, or the  
30 contractor could choose to deposit bonds in the amount necessary to  
31 satisfy the amount that otherwise would be withheld under the  
32 contract. If a contractor chooses a retainage deduction from each  
33 monthly payment, then the retainage would be limited to 2% of the  
34 amount due on each partial payment.

35 Upon acceptance of the work performed pursuant to the contract  
36 for which the contractor has agreed to a retainage deduction, all  
37 amounts being withheld by the State college must be paid in full to  
38 the contractor within 45 days of the final acceptance date agreed  
39 upon by the contractor and the State college. The bill provides that  
40 if the State college requires maintenance security after acceptance  
41 of the work performed under the contract, the security must be  
42 obtained in the form of a maintenance bond, which is required to be  
43 no longer than two years and no more than 100% of the project  
44 costs.

45 The provisions of this bill are similar to provisions in the "Local  
46 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) and  
47 the "Public School Contracts Law," P.L.1977, c.114 (C.18A:18A-1  
48 et seq.).



# SENATE HIGHER EDUCATION COMMITTEE

## STATEMENT TO

### SENATE, No. 2737

# STATE OF NEW JERSEY

DATED: MAY 23, 2013

The Senate Higher Education Committee reports favorably Senate Bill No. 2737.

This bill supplements the “State College Contracts Law,” P.L.1986, c.43 (C.18A:64-52 et seq.), and applies to any State college contract for over \$100,000 which involves the construction, reconstruction, alteration or repair of any building, structure, facility or other improvement to real property. Under the provisions of this bill, whenever a contract of this type requires the withholding of payment of a percentage of the amount of the contract, the contractor would have the choice of either agreeing to a retainage deduction from each monthly progress payment, or the contractor could choose to deposit bonds in the amount necessary to satisfy the amount that otherwise would be withheld under the contract. If a contractor chooses a retainage deduction from each monthly payment, then the retainage would be limited to 2% of the amount due on each partial payment.

Upon acceptance of the work performed pursuant to the contract for which the contractor has agreed to a retainage deduction, all amounts being withheld by the State college must be paid in full to the contractor within 45 days of the final acceptance date agreed upon by the contractor and the State college. The bill provides that if the State college requires maintenance security after acceptance of the work performed under the contract, the security must be obtained in the form of a maintenance bond, which is required to be no longer than two years and no more than 100% of the project costs.

The provisions of this bill are similar to provisions in the “Local Public Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.), and the “Public School Contracts Law,” P.L.1977, c.114 (C.18A:18A-1 et seq.).

# ASSEMBLY, No. 4217

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JUNE 10, 2013

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Assemblyman DAVID P. RIBLE**

**District 30 (Monmouth and Ocean)**

**Co-Sponsored by:**

**Assemblywoman Simon and Assemblyman DiMaio**

**SYNOPSIS**

Permits contractor in certain construction contracts with State college to choose between a retainage deduction from monthly progress payments or depositing a bond; allows 2% retainage deduction of amount due on each partial payment.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/18/2013)**

1 AN ACT concerning contracting by State colleges and  
2 supplementing P.L.1986, c.43 (C.18A:64-52 et seq.).  
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:  
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12 contract, the contractor may agree to the withholding of payments  
13 in the manner prescribed in the contract, or may deposit with the  
14 State college registered book bonds, entry municipal bonds, State  
15 bonds or other appropriate bonds of the State of New Jersey, or  
16 negotiable bearer bonds or notes of any political subdivision of the  
17 State, the value of which is equal to the amount necessary to satisfy  
18 the amount that otherwise would be withheld pursuant to the terms  
19 of the contract. The nature and amount of the bonds or notes to be  
20 deposited shall be subject to approval by the State college. For  
21 purposes of this section, "value" shall mean par value or current  
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23 If the contractor agrees to the withholding of payments, the  
24 amount withheld shall be deposited, with a banking institution or  
25 savings and loan association insured by an agency of the Federal  
26 government, in an account bearing interest at the rate currently paid  
27 by such institutions or associations on time or savings deposits. The  
28 amount withheld, or the bonds or notes deposited, and any interest  
29 accruing on such bonds or notes, shall be returned to the contractor  
30 upon fulfillment of the terms of the contract relating to such  
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13 in the form of a maintenance bond. The maintenance bond shall be  
14 no longer than two years and shall be no more than 100% of the  
15 project costs.

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17 4. This act shall take effect immediately.

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#### STATEMENT

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22 This bill supplements the "State College Contracts Law,"  
23 P.L.1986, c.43 (C.18A:64-52 et seq.), and applies to any State  
24 college contract for over \$100,000 which involves the construction,  
25 reconstruction, alteration or repair of any building, structure,  
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31 contractor could choose to deposit bonds in the amount necessary to  
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37 for which the contractor has agreed to a retainage deduction, all  
38 amounts being withheld by the State college must be paid in full to  
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40 upon by the contractor and the State college. The bill provides that  
41 if the State college requires maintenance security after acceptance  
42 of the work performed under the contract, the security must be  
43 obtained in the form of a maintenance bond, which is required to be  
44 no longer than two years and no more than 100% of the project  
45 costs.

**A4217 GREENWALD, RIBLE**

4

1       The provisions of this bill are similar to provisions in the “Local  
2 Public Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.) and  
3 the “Public School Contracts Law,” P.L.1977, c.114 (C.18A:18A-1  
4 et seq.).

ASSEMBLY HIGHER EDUCATION COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 4217**

**STATE OF NEW JERSEY**

DATED: JUNE 13, 2013

The Assembly Higher Education Committee reports favorably Assembly Bill No. 4217.

This bill supplements the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), and applies to any State college contract for over \$100,000 which involves the construction, reconstruction, alteration or repair of any building, structure, facility or other improvement to real property. Under the provisions of this bill, whenever a contract of this type requires the withholding of payment of a percentage of the amount of the contract, the contractor would have the choice of either agreeing to a retainage deduction from each monthly progress payment, or the contractor could choose to deposit bonds in the amount necessary to satisfy the amount that otherwise would be withheld under the contract. If a contractor chooses a retainage deduction from each monthly payment, then the retainage would be limited to 2% of the amount due on each partial payment.

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The provisions of this bill are similar to provisions in the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) and the "Public School Contracts Law," P.L.1977, c.114 (C.18A:18A-1 et seq.).