

40A:11-11

LEGISLATIVE HISTORY CHECKLIST

HJSA 40A:11-11 (Local governments--permit cooperative pricing systems)

LAWS OF 1979 CHAPTER 420

Bill No. A1755

Sponsor(s) Pellecchia and others

Date Introduced Nov. 13, 1978

Committee: Assembly Municipal Government

Senate County and Municipal Government

Amended during passage Yes No Assembly committee substitute enacted.

Date of Passage: Assembly Aug. 23, 1979

Senate Jan. 5, 1980

Date of approval Feb. 8, 1980

Following statements are attached if available:

Sponsor statement Yes No On original act and Assembly Committee substitute.

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

Assembly Committee Substitute

2-8-80

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1755

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 26, 1979

AN ACT to amend the "Local Public Contracts Law," approved
June 9, 1971 (P. L. 1971, c. 198).

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

1 Section 11 of P. L. 1971, c. 198 (C. 40A:11-11) is amended to
2 read as follows:

3 11. Additional matters regarding agreements for the purchases
4 of work, materials and supplies.

5 (1) The contracting units entering into a joint agreement pur-
6 suant to section 10 of this act may designate a joint purchasing
7 agent, department or board pursuant to section 9 of this act. Any
8 such agent, board or department already designated pursuant to
9 section 9 may serve as the joint agent, department or board desig-
10 nated pursuant to this section.

11 (2) Purchases, contracts or agreements made pursuant to a
12 joint purchasing agreement shall be subject to all of the terms and
13 conditions of this act.

14 (3) Any county or municipality serving as a purchasing agent,
15 board or department pursuant to this section 11, may make an
16 appropriation to enable it to perform any such contract and may
17 anticipate as revenue payments to be made and received by it from
18 any other party to the agreement. Any items so included in a local
19 budget shall be subject to the approval of the Director, Division of
20 Local Government Services, who shall consider the matter in con-
21 junction with the requirements of chapter 4 of Title 40A of the
22 New Jersey Statutes. The agreement and any subsequent amend-
23 ment or revisions thereto shall be filed with the Director of the
24 Division of Local Government Services in the Department of Com-
25 munity Affairs.

26 (4) Any agent, department or board so designated pursuant to
27 a joint purchasing agreement shall have the sole responsibility to
28 comply with the provisions of section 23 of this act.

29 (5) *The governing bodies of two or more contracting units or*
 30 *boards of education within the same county, or adjoining counties,*
 31 *may by ordinance or resolution, as appropriate, establish a co-*
 32 *operative pricing system as hereinafter provided. Any such ordi-*
 33 *nance or resolution shall establish procedures whereby one par-*
 34 *ticipating contracting unit in the cooperative pricing system shall*
 35 *be empowered to advertise and receive bids to provide prices for*
 36 *all other participating contracting units in such system for the*
 37 *purchase of work, materials and supplies; provided, however, that*
 38 *no purchase or contract shall be made by any participating con-*
 39 *tracting unit for a price which exceeds any other price available*
 40 *to the participating contracting unit, or for a purchase in deviation*
 41 *from the specifications, price or quality set forth by the participat-*
 42 *ing contracting unit.*

43 *No vendor shall be required or permitted to extend his bid prices*
 44 *to participating contracting units in a cooperative pricing system*
 45 *unless so specified in the bids.*

46 *No cooperative pricing system and agreements entered into pur-*
 47 *suant to such system, or joint purchase agreements established*
 48 *pursuant to this act, the "Interlocal Services Act," (P. L. 1973,*
 49 *c. 208; C. 40:8A-1 et seq.) or any other provision of law, shall*
 50 *become effective without prior approval of the Director of the*
 51 *Division of Local Government Services and said approval shall be*
 52 *valid for a period not to exceed 5 years.*

53 *The director's approval shall be based on the following:*

54 (i) *Provision for maintaining adequate records and orderly*
 55 *procedures to facilitate audit and efficient administration, and*

56 (ii) *Adequacy of public disclosure of such actions as are*
 57 *taken by the participants, and*

58 (iii) *Adequacy of procedures to facilitate compliance with*
 59 *all provisions of the "Local Public Contracts Law" and cor-*
 60 *responding regulations, and*

61 (iv) *Clarity of provisions to assure that the responsibilities*
 62 *of the respective parties are understood.*

63 *Failure of the Director of the Division of Local Government*
 64 *Services to approve or disapprove a properly executed and com-*
 65 *pleted application to establish a cooperative pricing system and*
 66 *agreements entered into pursuant to such system or other joint*
 67 *purchase agreement within 45 days from the date of receipt of said*
 68 *application by the director shall constitute approval of said applica-*
 69 *tion which shall be valid for a period of 5 years commencing from*
 70 *the date of receipt of said application by the director.*

71 *The Director of the Division of Local Government Services is*
72 *hereby authorized to promulgate rules and regulations specifying*
73 *procedures pertaining to cooperative pricing systems and joint*
74 *purchase agreements entered into pursuant to this act, the "Inter-*
75 *local Services Act," (P. L. 1973, c. 208; C. 40:8A-1 et seq.) and*
76 *any other provision of law.*

1 2. This act shall take effect immediately.

STATEMENT

This bill will provide a clear statutory basis for cooperative pricing systems to be established between local governments, eliminating questions which currently exist and clarifying the procedural manner of entering into such agreements.

There are a variety of ways currently available for joint purchasing under such laws as the Local Public Contracts Law, the Interlocal Services Act and the Optional County Charter Act, with various provisions for participation. This bill specifically will permit cooperative pricing systems in which one participant merely obtains standard prices on behalf of other participants in contrast to joint purchasing systems in which one member performs the actual purchasing as well. The bill establishes basic criteria to assure that confusion does not develop out of the growing number of such cooperative endeavors, and that accountability and uniformity are assured. It also assures that the availability of such multiple opportunities to select vendors will not be abused by selecting other than the lowest available prices. It prohibits substituting inferior goods or deviating from what was bid on.

ASSEMBLY, No. 1755

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 13, 1978

By Assemblymen PELLECCCHIA, GIRGENTI, BATE and OLSZOWY

Referred to Committee on Municipal Government

AN ACT to amend the "Local Public Contracts Law," approved
June 9, 1971 (P. L. 1971, c. 198).

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

1 1. Section 12 of P. L. 1971, c. 198 (C. 40A:11-12) is amended
2 to read as follows:

3 12. *a. Purchases through State agency. Any contracting unit*
4 *under this act may without advertising for bids, or having rejected*
5 *all bids obtained pursuant to advertising therefor, purchase any*
6 *materials, supplies or equipment under any contract or contracts*
7 *for such materials, supplies or equipment entered into on behalf*
8 *of the State by the Division of Purchase and Property in the De-*
9 *partment of the Treasury.*

10 *b. Purchases through county agency. Any contracting unit within*
11 *a county may without advertising for bids, or having rejected all*
12 *bids obtained pursuant to advertising therefor, purchase any ma-*
13 *terials, supplies or equipment under any contract or contracts for*
14 *such materials, supplies or equipment under any competitively*
15 *bid contract or contracts for such materials, supplies or equipment*
16 *entered into by the purchasing agency of the county within which*
17 *said contracting unit is located.*

1 2. This act shall take effect immediately.

STATEMENT

This bill permits contracting units within counties to make to the same joint purchasing arrangements with the counties within which they are located as those contracting units may now make with the State.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE
STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1755

STATE OF NEW JERSEY

DATED: FEBRUARY 26, 1979

The sponsor's statement adequately expresses the purposes of this act.

It is the sense of the committee that this substitute for Assembly Bill No. 1755 will provide the necessary statutory framework for the establishment of cooperative pricing systems. A participant in such system will obtain standard prices on behalf of other participants.

The bill also provides that the Director of the Division of Local Government Services shall be authorized to promulgate rules and regulations pertaining not only to cooperative pricing systems, but also to joint purchasing systems. It is the sense of the committee that such oversight is necessary to prevent certain irregular practices now prevalent in the area of joint purchasing agreements.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1755

STATE OF NEW JERSEY

DATED: DECEMBER 6, 1979

The Assembly Committee Substitute for Assembly Bill 1755 would amend the "Local Public Contracts Law" to provide clear statutory authorization for local governments to establish cooperative pricing systems among themselves. The concept is that of a system where one participant would obtain standard prices for work, supplies and materials on behalf of the other participants. Purchase at the obtained price would be optional to the participants.

Under current law, a number of means are available to local units for joint purchasing with various provisions for participation (Local Public Contracts Law, the Interlocal Services Act and the Optional County Charter Law).

This bill differs in that it would permit cooperative pricing systems in which one participant merely obtain standard prices on behalf of other participants in contrast to joint purchasing systems in which one member performs the actual purchasing as well. The bill establishes basic criteria to assure that confusion does not develop out of the growing number of such cooperative endeavors, and that accountability and uniformity are assured. It also assures that the availability of such multiple opportunities to select vendors will not be abused by selecting other than the lowest available prices. It prohibits substituting inferior goods or deviating from what was bid on.

The Assembly Committee authorized the Director of Local Government Services to promulgate rules and regulations governing not only cooperative pricing systems established under this bill, but also all joint purchasing systems established under any other law. All cooperative pricing systems and joint purchasing systems would require prior approval from the director, which approval would be valid for 5 years. The Assembly Committee stated that this extension of authority to the director "is necessary to prevent certain irregular practices now prevalent in the area of joint purchasing agreements."

The Department of Community Affairs participated in the formulation of the substitute measure, and approves its provision.