



**VETO MESSAGE:** No  
**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

RWH/CL

Title 52.  
Subtitle 5.  
Chapter 34A. (New)  
Electronic Procurement  
§§1-9 -  
C.52:34A-1 to 52:34A-9  
§10 – C.18A:18A-26.1  
§11 – C.18A:64-60.1  
§12 – C.18A:64A-25.26a  
§13 – C.52:18A-243.1  
§14 – C.40A:11-12.7  
§15 - Note

P.L. 2020, CHAPTER 59, *approved July 16, 2020*  
Senate, No. 2085 (*First Reprint*)

1 AN ACT concerning public contracts and supplementing various  
2 parts of the statutory law.

3

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

6

7 1. Sections 1 through 8 of P.L. , c. (C. ) (pending  
8 before the Legislature as this bill) shall be known and may be cited  
9 as the “Electronic Construction Procurement Act.”

10

11 2. The Legislature finds and declares that advances in  
12 electronic technology offer opportunities to enhance governmental  
13 efficiencies. In order to explore these avenues of improved  
14 government efficiency, it is in the best interests of the State to  
15 require public entities to implement proven electronic technologies  
16 for the procurement of public works construction, and to require the  
17 promulgation of standards for the use of these technologies that  
18 ensure the integrity and procedural protections of sealed public  
19 bidding and competitive contracting translated to an electronic  
20 environment.

21

22 3. As used in P.L. , c. (C. ) (pending before the  
23 Legislature as this bill):

24 “Electronic construction procurement” means, for the purposes  
25 of public works construction projects, the use of computer  
26 technology and the Internet for the advertising and submission of  
27 public bids, providing notice of revisions or addenda to  
28 advertisements or bid documents, the receipt of proposals and  
29 quotations, and related practices to assist in determining the lowest  
30 responsible bidder or other agency-appropriate bid or proposal  
31 procurement standard.

**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:**

**<sup>1</sup>Assembly AAP committee amendments adopted June 25, 2020.**

1 “Local contracting unit” means a government entity that  
2 contracts for the procurement of goods, services, or the construction  
3 of public works pursuant to the “Public School Contracts Law,”  
4 N.J.S.18A:18A-1 et seq.; the “County College Contracts Law,”  
5 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), or the “Local Public  
6 Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.).

7 “Public works construction” means any project that is subject to  
8 the “New Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-  
9 56.25 et seq.), and is contracted for by a State or local public  
10 contracting unit for the purposes of construction, reconstruction,  
11 demolition, alteration, custom fabrication, repair work, or  
12 maintenance work, including painting and decorating, done under  
13 contract and paid for, in whole or in part, out of the funds of a  
14 public body. Public works construction also means construction,  
15 reconstruction, demolition, alteration, custom fabrication, repair  
16 work, or maintenance work, done on any property or premises,  
17 whether or not the work is paid for from public funds if at the time  
18 of the entering into the contract, the property or premises is owned  
19 by the government entity.

20 “State contracting unit” means a government entity that contracts  
21 for the procurement of goods, services, or the construction of public  
22 works pursuant to the “State College Contracts Law,” P.L.1986,  
23 c.43 (C.18A:64-52 et seq.); P.L.2007, c.137 (C.52:18A-235 et seq.);  
24 or chapter 32, 33, or 34 of Title 52 of the Revised Statutes.

25  
26 4. A local contracting unit, as defined in section 3 of  
27 P.L. , c. (C. ) (pending before the Legislature as this bill),  
28 may use an electronic construction procurement process for public  
29 works construction contracts. The electronic construction  
30 procurement process to be used by local contracting units pursuant  
31 to this section shall be the process developed by the Director of the  
32 Division of Local Government Services in the Department of  
33 Community Affairs by regulations promulgated for the electronic  
34 procurement practices authorized in the “Local Unit Electronic  
35 Procurement Act,” P.L.2018, c.156 (C.40A:11-4.7 et al.).

36  
37 5. a. A State contracting unit, as defined in section 3 of  
38 P.L. , c. (C. ) (pending before the Legislature as this  
39 bill), shall use an electronic construction procurement process for  
40 public works construction contracts whenever the project requires  
41 public advertisement, subject to the provisions of  
42 P.L. , c. (C. ) (pending before the Legislature as this bill).

43 b. The State Treasurer, pursuant to the “Administrative  
44 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), shall  
45 promulgate regulations to effectuate the electronic procurement of  
46 public works construction by the State. The regulations shall set  
47 forth procedures to be followed by each State contracting unit for  
48 contracts that meet those criteria as deemed appropriate by the State

1 Treasurer. The regulations shall also set forth a procedure to be  
2 followed by a State contracting unit for the awarding of a contract  
3 for the administration of the electronic procurement process.

4  
5 6. a. The regulations promulgated by the State Treasurer  
6 pursuant to section 5 of P.L. , c. (C. ) (pending before the  
7 Legislature as this bill) shall require that contracts to be awarded for  
8 State construction projects pursuant to the provisions of  
9 P.L. , c. (C. ) (pending before the Legislature as this bill)  
10 contain the following bidding components:

- 11 (1) general conditions of the contract;
- 12 (2) plans and specifications of the public works construction  
13 project;
- 14 (3) competitive bidding for the contract, if appropriate;
- 15 (4) classification of firms submitting bids;
- 16 (5) statement of corporate ownership of the entity or entities  
17 submitting bids;
- 18 (6) bid bond and performance bond security;
- 19 (7) execution of the contract;
- 20 (8) certification of financial ability to complete work;
- 21 (9) commencement of work;
- 22 (10) prevailing wage mandate;
- 23 (11) acknowledgement of addenda;
- 24 (12) naming of prime subcontractors;
- 25 (13) specified alternates;
- 26 (14) non-collusion affidavit; and
- 27 (15) political contribution disclosure.

28 b. The State Treasurer shall also promulgate a bid proposal  
29 form to be used by contractors or vendors bidding for work under  
30 P.L. , c. (C. ) (pending before the Legislature as  
31 this bill).

32 c. The regulations shall require that a contractor or vendor  
33 seeking a contract for public works construction pursuant to  
34 P.L. , c. (C. ) (pending before the Legislature as this bill) be  
35 classified with the Division of Property Management and  
36 Construction in the Department of the Treasury, or be prequalified  
37 by the Department of Transportation, New Jersey Transit, or the  
38 New Jersey Turnpike Authority, prior to submitting a bid.

39  
40 7. The regulations promulgated by the State Treasurer pursuant  
41 to section 5 of P.L. , c. (C. ) (pending before the Legislature  
42 as this bill) shall require that electronic procurement processes meet  
43 'certain criteria, which may include, but shall not be limited to,'<sup>1</sup> the  
44 following requirements:

45 a. '[five years of use by a public contracting unit to secure  
46 electronic bids] allow for a business or company that creates or  
47 provides software to effectuate electronic procurement to provide  
48 those services pursuant to P.L. , c. (C. ) (pending before

1 the Legislature as this bill), if the business or company has prior  
2 experience providing electronic procurement services to the State  
3 and to other public entities, including, but not limited to, experience  
4 prior to the effective date of P.L. , c. (C, ) (pending  
5 before the Legislature as this bill)<sup>1</sup>;

6 b. allow public contracting units to advertise bids and distribute  
7 bidding documents including plans and specifications;

8 c. be a closed loop system that allows contractors, vendors, and  
9 bidders, to receive bid solicitations and documentation, as well as  
10 submit bids electronically;

11 d. provide a digital lockbox that ensures bid information cannot  
12 be accessed by a third party before the bid deadline, including an  
13 electronic bidding servicer or the State;

14 e. allow bids to be encrypted upon submission and when in the  
15 digital lockbox;

16 f. use digital signature technology and provide for identity  
17 verification;

18 g. allow for electronic bid validation;

19 h. allow bids to be withdrawn and resubmitted by the vendor or  
20 bidder at any point up to the published bid deadline;

21 i. allow addenda to be issued electronically with addenda  
22 automatically applied to the online bid form;

23 j. provide capabilities to create and edit templates of bid  
24 forms;

25 k. provide the means for the State to require data types,  
26 including but not limited to numeric prices;

27 l. <sup>1</sup>[calculate extensions for contractors, bidders or vendors  
28 based on price and quality when applicable;

29 m.]<sup>1</sup> alert contractors, vendors, and bidders of missing required  
30 data;

31 <sup>1</sup>[n.] m.<sup>1</sup> provide email notification to contractors, vendors, and  
32 bidders of issuance of bid advertisement and addenda;

33 <sup>1</sup>[o.] n.<sup>1</sup> provide commodity or classification codes as required  
34 by the contracting agency to allow for targeted notifications to  
35 contractors, vendors, and bidders;

36 <sup>1</sup>[p.] o.<sup>1</sup> provide system implementation services and training to  
37 public contracting units at no cost; and

38 <sup>1</sup>[q.] p.<sup>1</sup> offer scheduled training webinars for contractors,  
39 vendors, and bidders at no cost.

40

41 8. a. Notwithstanding any other law to the contrary, the  
42 regulations promulgated by the State Treasurer pursuant to section 5  
43 of P.L. , c. (C. ) (pending before the Legislature as this  
44 bill) shall include, but not be limited to, practices that,  
45 notwithstanding any other law to the contrary:

46 (1) convert the current statutory, regulatory, and policy  
47 procedures related to sealed bidding to an electronic procurement

1 environment;

2 (2) authorize public contracting units to accept commercial  
3 standards for electronic forms of bid security; and

4 (3) establish minimum standards that shall be met by systems  
5 and services that provide and administer electronic procurement  
6 processes.

7 b. The State Treasurer shall also consult with: the Attorney  
8 General to develop safeguards to protect against collusion and bid  
9 rigging; the Division of Purchase and Property and the Division of  
10 Property Management and Construction in the Department of the  
11 Treasury to develop practices used for electronic procurement; and  
12 the Office of Information Technology in, but not of, the Department  
13 of the Treasury, to ensure the privacy and security of electronic  
14 transactions.

15 c. Notwithstanding any law, rule, or regulation to the contrary,  
16 plans and specifications for public works construction contracts that  
17 require the seal and signature of a professional engineer, architect,  
18 or land surveyor may be included in an electronic file used for  
19 electronic procurement as long as the original document from which  
20 the electronic file is derived contains a physical or electronic seal  
21 and signature as otherwise required by law. If the State Board of  
22 Engineers and Land Surveyors and the New Jersey State Board of  
23 Architects adopt rules to permit digital seals and signatures, those  
24 rules shall supersede this subsection.

25

26 9. Notwithstanding any provisions of chapters 32, 33, and 34 of  
27 Title 52 of the Revised Statutes to the contrary, the State, and any  
28 agency or instrumentality of the State, shall use electronic  
29 procurement processes for public works construction contracts  
30 whenever the project requires public advertisement pursuant to  
31 section 7 of P.L.1954, c.48 (C.52:34-12), in accordance with the  
32 provisions of P.L. , c. (C. ) (pending before the  
33 Legislature as this bill).

34

35 10. Notwithstanding any provisions of the “Public School  
36 Contracts Law,” N.J.S.18A:18A-1 et seq. to the contrary, a board of  
37 education may use electronic procurement processes for public  
38 works construction contracts, pursuant to the requirements of  
39 section 4 of P.L. , c. (C. ) (pending before the Legislature as  
40 this bill). <sup>1</sup>【A board of education shall not incur any costs or fees  
41 related to the use of the electronic procurement process required by  
42 this section, including, but not limited to, any cost or fee related to  
43 the use or purchase of any required equipment or software.】<sup>1</sup>

44

45 11. Notwithstanding any provisions of the “State College  
46 Contracts Law,” P.L.1986, c.43 (C.18A:64-52 et seq.) to the  
47 contrary, a State college shall use electronic procurement processes  
48 for public works construction contracts whenever the project

1 requires public advertisement, in accordance with the provisions of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill).

3  
4 12. Notwithstanding any provisions of the “County College  
5 Contracts Law,” P.L.1982, c.189 (C.18A:64A-25.1 et seq.) to the  
6 contrary, a county college may use electronic procurement  
7 processes for public works construction contracts, pursuant to the  
8 requirements of section 4 of P.L. , c. (C. ) (pending before the  
9 Legislature as this bill). <sup>1</sup>【A county college shall not incur any  
10 costs or fees related to the use of the electronic procurement process  
11 required by this section, including, but not limited to, any cost or  
12 fee related to the use or purchase of any required equipment or  
13 software.】<sup>1</sup>

14  
15 13. Notwithstanding any provisions of P.L.2007, c.137  
16 (C.52:18A-235 et seq.) to the contrary, the New Jersey Schools  
17 Development Authority shall use electronic procurement processes  
18 for public works construction contracts whenever the project  
19 requires public advertisement, in accordance with the provisions of  
20 P.L. , c. (C. ) (pending before the Legislature as this bill).

21  
22 14. Notwithstanding any provisions of the “Local Public  
23 Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.) to the  
24 contrary, a contracting unit may use electronic procurement  
25 processes for public works construction contracts pursuant to the  
26 requirements of section 4 of P.L. , c. (C. ) (pending before  
27 the Legislature as this bill). <sup>1</sup>【A contracting unit shall not incur any  
28 costs or fees related to the use of the electronic procurement process  
29 required by this section, including, but not limited to, any cost or  
30 fee related to the use or purchase of any required equipment or  
31 software.】<sup>1</sup>

32  
33 15. This act shall take effect on the first day of the <sup>1</sup>【thirteenth】  
34 ninth<sup>1</sup> month next following enactment.

35  
36  
37 \_\_\_\_\_  
38  
39 “Electronic Construction Procurement Act.”

**SENATE, No. 2085**

---

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

---

INTRODUCED MARCH 16, 2020

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**Co-Sponsored by:**

**Senator O'Scanlon**

**SYNOPSIS**

“Electronic Construction Procurement Act.”

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/28/2020)**

1 AN ACT concerning public contracts and supplementing various  
2 parts of the statutory law.

3

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

6

7 1. Sections 1 through 8 of P.L. , c. (C. ) (pending  
8 before the Legislature as this bill) shall be known and may be cited  
9 as the “Electronic Construction Procurement Act.”

10

11 2. The Legislature finds and declares that advances in  
12 electronic technology offer opportunities to enhance governmental  
13 efficiencies. In order to explore these avenues of improved  
14 government efficiency, it is in the best interests of the State to  
15 require public entities to implement proven electronic technologies  
16 for the procurement of public works construction, and to require the  
17 promulgation of standards for the use of these technologies that  
18 ensure the integrity and procedural protections of sealed public  
19 bidding and competitive contracting translated to an electronic  
20 environment.

21

22 3. As used in P.L. , c. (C. ) (pending before the  
23 Legislature as this bill):

24 “Electronic construction procurement” means, for the purposes  
25 of public works construction projects, the use of computer  
26 technology and the Internet for the advertising and submission of  
27 public bids, providing notice of revisions or addenda to  
28 advertisements or bid documents, the receipt of proposals and  
29 quotations, and related practices to assist in determining the lowest  
30 responsible bidder or other agency-appropriate bid or proposal  
31 procurement standard.

32 “Local contracting unit” means a government entity that  
33 contracts for the procurement of goods, services, or the construction  
34 of public works pursuant to the “Public School Contracts Law,”  
35 N.J.S.18A:18A-1 et seq.; the “County College Contracts Law,”  
36 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), or the “Local Public  
37 Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.).

38 “Public works construction” means any project that is subject to  
39 the “New Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-  
40 56.25 et seq.), and is contracted for by a State or local public  
41 contracting unit for the purposes of construction, reconstruction,  
42 demolition, alteration, custom fabrication, repair work, or  
43 maintenance work, including painting and decorating, done under  
44 contract and paid for, in whole or in part, out of the funds of a  
45 public body. Public works construction also means construction,  
46 reconstruction, demolition, alteration, custom fabrication, repair  
47 work, or maintenance work, done on any property or premises,  
48 whether or not the work is paid for from public funds if at the time

1 of the entering into the contract, the property or premises is owned  
2 by the government entity.

3 “State contracting unit” means a government entity that contracts  
4 for the procurement of goods, services, or the construction of public  
5 works pursuant to the “State College Contracts Law,” P.L.1986,  
6 c.43 (C.18A:64-52 et seq.); P.L.2007, c.137 (C.52:18A-235 et seq.);  
7 or chapter 32, 33, or 34 of Title 52 of the Revised Statutes.

8  
9 4. A local contracting unit, as defined in section 3 of  
10 P.L. , c. (C. ) (pending before the Legislature as this bill),  
11 may use an electronic construction procurement process for public  
12 works construction contracts. The electronic construction  
13 procurement process to be used by local contracting units pursuant  
14 to this section shall be the process developed by the Director of the  
15 Division of Local Government Services in the Department of  
16 Community Affairs by regulations promulgated for the electronic  
17 procurement practices authorized in the “Local Unit Electronic  
18 Procurement Act,” P.L.2018, c.156 (C.40A:11-4.7 et al.).

19  
20 5. a. A State contracting unit, as defined in section 3 of  
21 P.L. , c. (C. ) (pending before the Legislature as this  
22 bill), shall use an electronic construction procurement process for  
23 public works construction contracts whenever the project requires  
24 public advertisement, subject to the provisions of  
25 P.L. , c. (C. ) (pending before the Legislature as this bill).

26 b. The State Treasurer, pursuant to the “Administrative  
27 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), shall  
28 promulgate regulations to effectuate the electronic procurement of  
29 public works construction by the State. The regulations shall set  
30 forth procedures to be followed by each State contracting unit for  
31 contracts that meet those criteria as deemed appropriate by the State  
32 Treasurer. The regulations shall also set forth a procedure to be  
33 followed by a State contracting unit for the awarding of a contract  
34 for the administration of the electronic procurement process.

35  
36 6. a. The regulations promulgated by the State Treasurer  
37 pursuant to section 5 of P.L. , c. (C. ) (pending before the  
38 Legislature as this bill) shall require that contracts to be awarded for  
39 State construction projects pursuant to the provisions of  
40 P.L. , c. (C. ) (pending before the Legislature as this bill)  
41 contain the following bidding components:

- 42 (1) general conditions of the contract;
- 43 (2) plans and specifications of the public works construction  
44 project;
- 45 (3) competitive bidding for the contract, if appropriate;
- 46 (4) classification of firms submitting bids;
- 47 (5) statement of corporate ownership of the entity or entities  
48 submitting bids;

- 1 (6) bid bond and performance bond security;
- 2 (7) execution of the contract;
- 3 (8) certification of financial ability to complete work;
- 4 (9) commencement of work;
- 5 (10) prevailing wage mandate;
- 6 (11) acknowledgement of addenda;
- 7 (12) naming of prime subcontractors;
- 8 (13) specified alternates;
- 9 (14) non-collusion affidavit; and
- 10 (15) political contribution disclosure.

11 b. The State Treasurer shall also promulgate a bid proposal  
12 form to be used by contractors or vendors bidding for work under  
13 P.L. , c. (C. ) (pending before the Legislature as  
14 this bill).

15 c. The regulations shall require that a contractor or vendor  
16 seeking a contract for public works construction pursuant to  
17 P.L. , c. (C. ) (pending before the Legislature as this bill) be  
18 classified with the Division of Property Management and  
19 Construction in the Department of the Treasury, or be prequalified  
20 by the Department of Transportation, New Jersey Transit, or the  
21 New Jersey Turnpike Authority, prior to submitting a bid.

22  
23 7. The regulations promulgated by the State Treasurer pursuant  
24 to section 5 of P.L. , c. (C. ) (pending before the Legislature as  
25 this bill) shall require that electronic procurement processes meet  
26 the following requirements:

- 27 a. five years of use by a public contracting unit to secure  
28 electronic bids;
- 29 b. allow public contracting units to advertise bids and distribute  
30 bidding documents including plans and specifications;
- 31 c. be a closed loop system that allows contractors, vendors, and  
32 bidders, to receive bid solicitations and documentation, as well as  
33 submit bids electronically;
- 34 d. provide a digital lockbox that ensures bid information cannot  
35 be accessed by a third party before the bid deadline, including an  
36 electronic bidding servicer or the State;
- 37 e. allow bids to be encrypted upon submission and when in the  
38 digital lockbox;
- 39 f. use digital signature technology and provide for identity  
40 verification;
- 41 g. allow for electronic bid validation;
- 42 h. allow bids to be withdrawn and resubmitted by the vendor or  
43 bidder at any point up to the published bid deadline;
- 44 i. allow addenda to be issued electronically with addenda  
45 automatically applied to the online bid form;
- 46 j. provide capabilities to create and edit templates of bid  
47 forms;

- 1 k. provide the means for the State to require data types,  
2 including but not limited to numeric prices;
- 3 l. calculate extensions for contractors, bidders or vendors  
4 based on price and quality when applicable;
- 5 m. alert contractors, vendors, and bidders of missing required  
6 data;
- 7 n. provide email notification to contractors, vendors, and  
8 bidders of issuance of bid advertisement and addenda;
- 9 o. provide commodity or classification codes as required by the  
10 contracting agency to allow for targeted notifications to contractors,  
11 vendors, and bidders;
- 12 p. provide system implementation services and training to  
13 public contracting units at no cost; and
- 14 q. offer scheduled training webinars for contractors, vendors,  
15 and bidders at no cost.
- 16
- 17 8. a. Notwithstanding any other law to the contrary, the  
18 regulations promulgated by the State Treasurer pursuant to section 5  
19 of P.L. , c. (C. ) (pending before the Legislature as this  
20 bill) shall include, but not be limited to, practices that,  
21 notwithstanding any other law to the contrary:
- 22 (1) convert the current statutory, regulatory, and policy  
23 procedures related to sealed bidding to an electronic procurement  
24 environment;
- 25 (2) authorize public contracting units to accept commercial  
26 standards for electronic forms of bid security; and
- 27 (3) establish minimum standards that shall be met by systems  
28 and services that provide and administer electronic procurement  
29 processes.
- 30 b. The State Treasurer shall also consult with: the Attorney  
31 General to develop safeguards to protect against collusion and bid  
32 rigging; the Division of Purchase and Property and the Division of  
33 Property Management and Construction in the Department of the  
34 Treasury to develop practices used for electronic procurement; and  
35 the Office of Information Technology in, but not of, the Department  
36 of the Treasury, to ensure the privacy and security of electronic  
37 transactions.
- 38 c. Notwithstanding any law, rule, or regulation to the contrary,  
39 plans and specifications for public works construction contracts that  
40 require the seal and signature of a professional engineer, architect,  
41 or land surveyor may be included in an electronic file used for  
42 electronic procurement as long as the original document from which  
43 the electronic file is derived contains a physical or electronic seal  
44 and signature as otherwise required by law. If the State Board of  
45 Engineers and Land Surveyors and the New Jersey State Board of  
46 Architects adopt rules to permit digital seals and signatures, those  
47 rules shall supersede this subsection.

**S2085 SWEENEY, OROHO**

1       9. Notwithstanding any provisions of chapters 32, 33, and 34 of  
2 Title 52 of the Revised Statutes to the contrary, the State, and any  
3 agency or instrumentality of the State, shall use electronic  
4 procurement processes for public works construction contracts  
5 whenever the project requires public advertisement pursuant to  
6 section 7 of P.L.1954, c.48 (C.52:34-12), in accordance with the  
7 provisions of P.L.       , c. (C.       ) (pending before the  
8 Legislature as this bill).

9  
10       10. Notwithstanding any provisions of the “Public School  
11 Contracts Law,” N.J.S.18A:18A-1 et seq. to the contrary, a board of  
12 education may use electronic procurement processes for public  
13 works construction contracts, pursuant to the requirements of  
14 section 4 of P.L.       , c. (C.       ) (pending before the Legislature as  
15 this bill). A board of education shall not incur any costs or fees  
16 related to the use of the electronic procurement process required by  
17 this section, including, but not limited to, any cost or fee related to  
18 the use or purchase of any required equipment or software.

19  
20       11. Notwithstanding any provisions of the “State College  
21 Contracts Law,” P.L.1986, c.43 (C.18A:64-52 et seq.) to the  
22 contrary, a State college shall use electronic procurement processes  
23 for public works construction contracts whenever the project  
24 requires public advertisement, in accordance with the provisions of  
25 P.L.       , c. (C.       ) (pending before the Legislature as this bill).

26  
27       12. Notwithstanding any provisions of the “County College  
28 Contracts Law,” P.L.1982, c.189 (C.18A:64A-25.1 et seq.) to the  
29 contrary, a county college may use electronic procurement  
30 processes for public works construction contracts, pursuant to the  
31 requirements of section 4 of P.L.       , c. (C.       ) (pending before the  
32 Legislature as this bill). A county college shall not incur any costs  
33 or fees related to the use of the electronic procurement process  
34 required by this section, including, but not limited to, any cost or  
35 fee related to the use or purchase of any required equipment or  
36 software.

37  
38       13. Notwithstanding any provisions of P.L.2007, c.137  
39 (C.52:18A-235 et seq.) to the contrary, the New Jersey Schools  
40 Development Authority shall use electronic procurement processes  
41 for public works construction contracts whenever the project  
42 requires public advertisement, in accordance with the provisions of  
43 P.L.       , c. (C.       ) (pending before the Legislature as this bill).

44  
45       14. Notwithstanding any provisions of the “Local Public  
46 Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.) to the  
47 contrary, a contracting unit may use electronic procurement  
48 processes for public works construction contracts pursuant to the

1 requirements of section 4 of P.L. , c. (C. ) (pending before  
2 the Legislature as this bill). A contracting unit shall not incur any  
3 costs or fees related to the use of the electronic procurement process  
4 required by this section, including, but not limited to, any cost or  
5 fee related to the use or purchase of any required equipment or  
6 software.

7

8 15. This act shall take effect on the first day of the thirteenth  
9 month next following enactment.

10

11

12

### STATEMENT

13

14 This bill would require State contracting units, including State  
15 colleges, to use an electronic procurement process for public works  
16 construction contracts when the project requires public  
17 advertisement.

18 The bill requires the State Treasurer to promulgate regulations to  
19 effectuate the electronic procurement of public works construction  
20 as required in the bill. The regulations shall set forth each of the  
21 steps the State Treasurer deems appropriate to be taken by each  
22 State contracting unit for contracts that meet those criteria. The  
23 regulations shall also set forth a procedure to be followed for the  
24 awarding of a contract for the administration of the electronic  
25 procurement process.

26 The bill permits local units of government, county colleges, and  
27 school districts to use an electronic procurement process for public  
28 works construction contracts. The electronic construction  
29 procurement process to be used by those public entities will be the  
30 process developed by the Director of the Division of Local  
31 Government Services in the Department of Community Affairs by  
32 regulations promulgated for the electronic procurement practices  
33 authorized in the "Local Unit Electronic Procurement Act,"  
34 P.L.2018, c.156 (C.40A:11-4.7 et al.).

ASSEMBLY STATE AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO

**SENATE, No. 2085**

**STATE OF NEW JERSEY**

DATED: JUNE 17, 2020

The Assembly State and Local Government Committee reports favorably Senate Bill No. 2085.

This bill would require State contracting units, including State colleges, to use an electronic procurement process for public works construction contracts when the project requires public advertisement.

The bill requires the State Treasurer to promulgate regulations to effectuate the electronic procurement of public works construction as required in the bill. The regulations would set forth each of the steps the State Treasurer deems appropriate to be taken by each State contracting unit for contracts that meet those criteria. The regulations would also set forth a procedure to be followed for the awarding of a contract for the administration of the electronic procurement process.

The bill permits local units of government, county colleges, and school districts to use an electronic procurement process for public works construction contracts. The electronic construction procurement process to be used by those public entities will be the process developed by the Director of the Division of Local Government Services in the Department of Community Affairs by regulations promulgated for the electronic procurement practices authorized in the "Local Unit Electronic Procurement Act," P.L.2018, c.156 (C.40A:11-4.7 et al.).

This bill is identical to Assembly Bill No. 3785.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2085**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 26, 2020

The Assembly Appropriations Committee reports favorably and with amendments Senate Bill No. 2085.

As amended by the committee, this bill would require State contracting units, including State colleges, to use an electronic procurement process for public works construction contracts when the project requires public advertisement.

The amended bill requires the State Treasurer to promulgate regulations to effectuate the electronic procurement of public works construction as required in the bill. The regulations would set forth each of the steps the State Treasurer deems appropriate to be taken by each State contracting unit for contracts that meet those criteria. The regulations would also set forth a procedure to be followed for the awarding of a contract for the administration of the electronic procurement process.

The amended bill permits local units of government, county colleges, and school districts to use an electronic procurement process for public works construction contracts. The electronic construction procurement process to be used by those public entities will be the process developed by the Director of the Division of Local Government Services in the Department of Community Affairs by regulations promulgated for the electronic procurement practices authorized in the "Local Unit Electronic Procurement Act," P.L.2018, c.156 (C.40A:11-4.7 et al.).

As amended and reported by the committee, Senate Bill No. 2085 (1R) is identical to Assembly Bill No. 3785 (1R), which also was amended and reported by the committee on this date.

#### COMMITTEE AMENDMENTS:

The committee made the following amendments:

to section 7, amendments to subsection a. to provide that the regulations to be promulgated by the State Treasurer shall require that the electronic procurement processes meet certain criteria, which may include, but shall not be limited to, the requirements listed in that subsection, and to allow for a business or company that creates or provides software to effectuate electronic procurement, to provide those services pursuant to the bill if the business or company has

prior experience providing electronic procurement services to the State and to other public entities, including, but not limited to, experience prior to the effective date of the bill; and to subsection 1. to remove the language of that section requiring electronic procurement processes to be able to calculate extensions for contractors, bidders, or vendors based on price and quality, when applicable;

to sections 10, 12, and 14, which concern the “Public School Contracts Law,” the “County College Contracts Law,” and the “Local Public Contracts Law,” respectively, to remove language requiring that those public entities shall not incur any costs or fees related to the use of electronic procurement processes under the bill. This language is being removed because those sections are permissive, not mandatory, so there is no concern about the possibility of an unfunded mandate; and

to section 15 of the bill to shorten the time frame between the enactment of the bill and the effective date of the bill, from thirteen months next following enactment, to nine months next following enactment.

**FISCAL IMPACT:**

The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate annual expenditures for the Department of the Treasury to: (1) establish and implement the electronic construction procurement system; and (2) provide related training to State contracting units and other users of the system.

Under the bill, all State contracting units, including State colleges and the New Jersey Schools Development Authority, would be required to use the electronic procurement process developed by the State Treasurer for public works construction contracts when the project requires public advertisement.

Although the State may incur increased up-front expenditures associated with developing and implementing the electronic purchasing system, these potential costs could be offset by savings not achievable through the current public contracting process.

The bill is permissive for local contracting units, such as boards of education, county colleges, and municipalities.

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### SENATE, No. 2085

# STATE OF NEW JERSEY

DATED: MAY 27, 2020

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 2085.

This bill would require State contracting units, including State colleges, to use an electronic procurement process for public works construction contracts when the project requires public advertisement. The bill requires the State Treasurer to promulgate regulations to effectuate this public works construction electronic procurement requirement. The regulations would set forth each of the steps the State Treasurer deems appropriate to be taken by each State contracting unit for contracts that meet those criteria. The regulations also would set forth a procedure to be followed for the awarding of a contract for the administration of the electronic procurement process.

The bill also permits local governments, county colleges, and school districts to use an electronic procurement process for public works construction contracts. The electronic construction procurement process to be used by those public entities would be the process developed by the Director of the Division of Local Government Services in the Department of Community Affairs by regulations promulgated for the electronic procurement practices authorized in the “Local Unit Electronic Procurement Act,” P.L.2018, c.156 (C.40A:11-4.7 et al.).

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 2085**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: MAY 21, 2020

**SUMMARY**

**Synopsis:** “Electronic Construction Procurement Act.”

**Type of Impact:** Annual increases to State expenditures.

**Agencies Affected:** Department of the Treasury, State Institutions of Higher Education, the Schools Development Authority, Department of Community Affairs, Department of Law and Public Safety, Office of Information Technology

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate annual expenditures for the Department of the Treasury to: (1) establish and implement the electronic construction procurement system; and (2) provide related training to State contracting units and other users of the system.
- Under the bill, all State contracting units, including State colleges and the New Jersey Schools Development Authority, would be required to use the electronic procurement process developed by the State Treasurer for public works construction contracts when the project requires public advertisement.
- Although the State may incur increased up-front expenditures associated with developing and implementing the electronic purchasing system, these potential costs could be offset by savings not achievable through the current public contracting process.
- The bill is permissive for local contracting units, such as boards of education, county colleges, and municipalities. If a local contracting unit chooses to use the electronic procurement process, the bill prohibits the unit from incurring any costs or fees related to its use, including, but not limited to, any cost or fee related to the use or purchase of any required equipment or software.



## **BILL DESCRIPTION**

The bill would require State contracting units to use an electronic procurement process for public works construction contracts when the project requires public advertisement.

The bill requires the State Treasurer to promulgate regulations to effectuate the electronic procurement of public works construction. The regulations would set forth each of the steps the State Treasurer deems appropriate to be taken by each State contracting unit for contracts that meet certain criteria. The regulations would also set forth a procedure to be followed for the awarding of a contract for the administration of the electronic procurement process.

The bill permits local units of government, county colleges, and school districts to use an electronic procurement process for public works construction contracts, at no cost or fees related to its use. The electronic construction procurement process to be used by those public entities would be the process developed by the Director of the Division of Local Government Services in the Department of Community Affairs by regulations promulgated for the electronic procurement practices authorized in the Local Unit Electronic Procurement Act.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill will result in indeterminate additional expenditures for the Department of the Treasury to: (1) establish and implement the electronic construction procurement system; and (2) provide related training to State contracting units and other users of the system. However, the OLS lacks sufficient information to quantify the precise fiscal impacts of the bill.

#### **State Expenditure Increases**

The Department of the Treasury is expected to incur indeterminate start-up costs associated with developing the electronic system required by the bill. However, lacking information concerning the technical specifications of the electronic procurement process, the OLS cannot quantify the anticipated increase in expenditures. Additionally, the design complexity of the electronic system may influence whether the department outsources development to a contracted service provider or performs the work in-house. The two approaches would likely entail different costs, and it is unclear which approach the department would implement.

The Treasury is also expected to incur additional annual expenditures to provide training on the use of the electronic system to State contracting units and other users of the system. However, absent any information concerning the contents of such training, the OLS is unable to estimate the anticipated cost of this requirement.

Under the bill, all State contracting units, including State colleges and the New Jersey Schools Development Authority, would be required to use the electronic procurement process developed by the State Treasurer for public works construction contracts when the project requires public advertisement. Although State contracting units may incur additional start-up costs associated with implementing the system, these potential costs could be offset by savings not achievable through the current public contracting process. Specifically, the use of a technology-based

procurement system may allow State contracting units to allocate staff more efficiently and reduce costs associated with the current paper-based public contracting and purchasing system. Electronic purchasing systems also could increase the transparency of the contracting and bidding process, achieve value and promote competition, expand the supplier base, maintain financial controls, measure contractor performance, and promote efficiency in workflow and approval authority.

#### Impact on Local Contracting Units

The bill is permissive for local contracting units, such as boards of education, county colleges, and municipalities. If a local contracting unit chooses to use the electronic procurement process, the bill prohibits the unit from incurring any costs or fees related to its use, including, but not limited to, any cost or fee related to the use or purchase of any required equipment or software. The electronic construction procurement process to be used by those local public entities would be the process developed by the Director of the Division of Local Government Services by regulations promulgated for the electronic procurement practices authorized in the Local Unit Electronic Procurement Act. Due to the passage of that act, the OLS estimates the bill to have a negligible impact on local contracting units.

*Section: Local Government*

*Analyst: Benjamin A. Levy  
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III  
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 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 2085

### STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JULY 2, 2020

#### SUMMARY

**Synopsis:** “Electronic Construction Procurement Act.”

**Type of Impact:** Annual increases to State expenditures.

**Agencies Affected:** Department of the Treasury, State Institutions of Higher Education, the Schools Development Authority, Department of Community Affairs, Department of Law and Public Safety, Office of Information Technology

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate annual expenditures for the Department of the Treasury to: (1) establish and implement the electronic construction procurement system; and (2) provide related training to State contracting units and other users of the system.
- Under the bill, all State contracting units, including State colleges and the New Jersey Schools Development Authority, would be required to use the electronic procurement process developed by the State Treasurer for public works construction contracts when the project requires public advertisement.
- Although the State may incur increased up-front expenditures associated with developing and implementing the electronic purchasing system, these potential costs could be offset by savings not achievable through the current public contracting process.
- The bill is permissive for local contracting units, such as boards of education, county colleges, and municipalities.

## **BILL DESCRIPTION**

The bill would require State contracting units to use an electronic procurement process for public works construction contracts when the project requires public advertisement.

The bill requires the State Treasurer to promulgate regulations to effectuate the electronic procurement of public works construction. The regulations would set forth each of the steps the State Treasurer deems appropriate to be taken by each State contracting unit for contracts that meet certain criteria. The regulations would also set forth a procedure to be followed for the awarding of a contract for the administration of the electronic procurement process.

The bill permits local units of government, county colleges, and school districts to use an electronic procurement process for public works construction contracts. The electronic construction procurement process to be used by those public entities would be the process developed by the Director of the Division of Local Government Services in the Department of Community Affairs by regulations promulgated for the electronic procurement practices authorized in the Local Unit Electronic Procurement Act.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill will result in indeterminate additional expenditures for the Department of the Treasury to: (1) establish and implement the electronic construction procurement system; and (2) provide related training to State contracting units and other users of the system. However, the OLS lacks sufficient information to quantify the precise fiscal impacts of the bill.

#### **State Expenditure Increases**

The Department of the Treasury is expected to incur indeterminate start-up costs associated with developing the electronic system required by the bill. However, lacking information concerning the technical specifications of the electronic procurement process, the OLS cannot quantify the anticipated increase in expenditures. Additionally, the design complexity of the electronic system may influence whether the department outsources development to a contracted service provider or performs the work in-house. The two approaches would likely entail different costs, and it is unclear which approach the department would implement.

The Treasury is also expected to incur additional annual expenditures to provide training on the use of the electronic system to State contracting units and other users of the system. However, absent any information concerning the contents of such training, the OLS is unable to estimate the anticipated cost of this requirement.

Under the bill, all State contracting units, including State colleges and the New Jersey Schools Development Authority, would be required to use the electronic procurement process developed by the State Treasurer for public works construction contracts when the project requires public advertisement. Although State contracting units may incur additional start-up costs associated with implementing the system, these potential costs could be offset by savings not achievable through the current public contracting process. Specifically, the use of a technology-based

procurement system may allow State contracting units to allocate staff more efficiently and reduce costs associated with the current paper-based public contracting and purchasing system. Electronic purchasing systems also could increase the transparency of the contracting and bidding process, achieve value and promote competition, expand the supplier base, maintain financial controls, measure contractor performance, and promote efficiency in workflow and approval authority.

#### Impact on Local Contracting Units

The bill is permissive for local contracting units, such as boards of education, county colleges, and municipalities. The electronic construction procurement process to be used by those local public entities would be the process developed by the Director of the Division of Local Government Services by regulations promulgated for the electronic procurement practices authorized in the Local Unit Electronic Procurement Act. Due to the passage of that act, the OLS estimates the bill to have a negligible impact on local contracting units.

*Section: Local Government*

*Analyst: Benjamin A. Levy*  
*Assistant Fiscal Analyst*

*Approved: Frank W. Haines III*  
*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 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 3785

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 5, 2020

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Assemblyman VINCENT MAZZEO**

**District 2 (Atlantic)**

**Assemblywoman NANCY J. PINKIN**

**District 18 (Middlesex)**

**SYNOPSIS**

“Electronic Construction Procurement Act.”

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/28/2020)

1 AN ACT concerning public contracts and supplementing various  
2 parts of the statutory law.

3

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

6

7 1. Sections 1 through 8 of P.L. , c. (C. ) (pending  
8 before the Legislature as this bill) shall be known and may be cited  
9 as the “Electronic Construction Procurement Act.”

10

11 2. The Legislature finds and declares that advances in  
12 electronic technology offer opportunities to enhance governmental  
13 efficiencies. In order to explore these avenues of improved  
14 government efficiency, it is in the best interests of the State to  
15 require public entities to implement proven electronic technologies  
16 for the procurement of public works construction, and to require the  
17 promulgation of standards for the use of these technologies that  
18 ensure the integrity and procedural protections of sealed public  
19 bidding and competitive contracting translated to an electronic  
20 environment.

21

22 3. As used in P.L. , c. (C. ) (pending before the  
23 Legislature as this bill):

24 “Electronic construction procurement” means, for the purposes  
25 of public works construction projects, the use of computer  
26 technology and the Internet for the advertising and submission of  
27 public bids, providing notice of revisions or addenda to  
28 advertisements or bid documents, the receipt of proposals and  
29 quotations, and related practices to assist in determining the lowest  
30 responsible bidder or other agency-appropriate bid or proposal  
31 procurement standard.

32 “Local contracting unit” means a government entity that  
33 contracts for the procurement of goods, services, or the construction  
34 of public works pursuant to the “Public School Contracts Law,”  
35 N.J.S.18A:18A-1 et seq.; the “County College Contracts Law,”  
36 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), or the “Local Public  
37 Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.).

38 “Public works construction” means any project that is subject to  
39 the “New Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-  
40 56.25 et seq.), and is contracted for by a State or local public  
41 contracting unit for the purposes of construction, reconstruction,  
42 demolition, alteration, custom fabrication, repair work, or  
43 maintenance work, including painting and decorating, done under  
44 contract and paid for, in whole or in part, out of the funds of a  
45 public body. Public works construction also means construction,  
46 reconstruction, demolition, alteration, custom fabrication, repair  
47 work, or maintenance work, done on any property or premises,

1 whether or not the work is paid for from public funds if at the time  
2 of the entering into the contract, the property or premises is owned  
3 by the government entity.

4 “State contracting unit” means a government entity that contracts  
5 for the procurement of goods, services, or the construction of public  
6 works pursuant to the “State College Contracts Law,”  
7 P.L.1986, c.43 (C.18A:64-52 et seq.); P.L.2007, c.137 (C.52:18A-  
8 235 et seq.); or chapter 32, 33, or 34 of Title 52 of the Revised  
9 Statutes.

10

11 4. A local contracting unit, as defined in section 3 of  
12 P.L. , c. (C. ) (pending before the Legislature as this bill),  
13 may use an electronic construction procurement process for public  
14 works construction contracts. The electronic construction  
15 procurement process to be used by local contracting units pursuant  
16 to this section shall be the process developed by the Director of the  
17 Division of Local Government Services in the Department of  
18 Community Affairs by regulations promulgated for the electronic  
19 procurement practices authorized in the “Local Unit Electronic  
20 Procurement Act,” P.L.2018, c.156 (C.40A:11-4.7 et al.).

21

22 5. a. A State contracting unit, as defined in section 3 of  
23 P.L. , c. (C. ) (pending before the Legislature as this  
24 bill), shall use an electronic construction procurement process for  
25 public works construction contracts whenever the project requires  
26 public advertisement, subject to the provisions of  
27 P.L. , c. (C. ) (pending before the Legislature as this bill).

28 b. The State Treasurer, pursuant to the “Administrative  
29 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), shall  
30 promulgate regulations to effectuate the electronic procurement of  
31 public works construction by the State. The regulations shall set  
32 forth procedures to be followed by each State contracting unit for  
33 contracts that meet those criteria as deemed appropriate by the State  
34 Treasurer. The regulations shall also set forth a procedure to be  
35 followed by a State contracting unit for the awarding of a contract  
36 for the administration of the electronic procurement process.

37

38 6. a. The regulations promulgated by the State Treasurer  
39 pursuant to section 5 of P.L. , c. (C. ) (pending before the  
40 Legislature as this bill) shall require that contracts to be awarded for  
41 State construction projects pursuant to the provisions of  
42 P.L. , c. (C. ) (pending before the Legislature as this bill)  
43 contain the following bidding components:

- 44 (1) general conditions of the contract;  
45 (2) plans and specifications of the public works construction  
46 project;  
47 (3) competitive bidding for the contract, if appropriate;  
48 (4) classification of firms submitting bids;

- 1 (5) statement of corporate ownership of the entity or entities
  - 2 submitting bids;
  - 3 (6) bid bond and performance bond security;
  - 4 (7) execution of the contract;
  - 5 (8) certification of financial ability to complete work;
  - 6 (9) commencement of work;
  - 7 (10) prevailing wage mandate;
  - 8 (11) acknowledgement of addenda;
  - 9 (12) naming of prime subcontractors;
  - 10 (13) specified alternates;
  - 11 (14) non-collusion affidavit; and
  - 12 (15) political contribution disclosure.
- 13 b. The State Treasurer shall also promulgate a bid proposal
- 14 form to be used by contractors or vendors bidding for work under
- 15 P.L. , c. (C. ) (pending before the Legislature as
- 16 this bill).
- 17 c. The regulations shall require that a contractor or vendor
- 18 seeking a contract for public works construction pursuant to
- 19 P.L. , c. (C. ) (pending before the Legislature as this bill) be
- 20 classified with the Division of Property Management and
- 21 Construction in the Department of the Treasury, or be prequalified
- 22 by the Department of Transportation, New Jersey Transit, or the
- 23 New Jersey Turnpike Authority, prior to submitting a bid.
- 24
- 25 7. The regulations promulgated by the State Treasurer pursuant
- 26 to section 5 of P.L. , c. (C. ) (pending before the Legislature as
- 27 this bill) shall require that electronic procurement processes meet
- 28 the following requirements:
- 29 a. five years of use by a public contracting unit to secure
  - 30 electronic bids;
  - 31 b. allow public contracting units to advertise bids and distribute
  - 32 bidding documents including plans and specifications;
  - 33 c. be a closed loop system that allows contractors, vendors, and
  - 34 bidders, to receive bid solicitations and documentation, as well as
  - 35 submit bids electronically;
  - 36 d. provide a digital lockbox that ensures bid information cannot
  - 37 be accessed by a third party before the bid deadline, including an
  - 38 electronic bidding servicer or the State;
  - 39 e. allow bids to be encrypted upon submission and when in the
  - 40 digital lockbox;
  - 41 f. use digital signature technology and provide for identity
  - 42 verification;
  - 43 g. allow for electronic bid validation;
  - 44 h. allow bids to be withdrawn and resubmitted by the vendor or
  - 45 bidder at any point up to the published bid deadline;
  - 46 i. allow addenda to be issued electronically with addenda
  - 47 automatically applied to the online bid form;

- 1 j. provide capabilities to create and edit templates of bid  
2 forms;
- 3 k. provide the means for the State to require data types,  
4 including but not limited to numeric prices;
- 5 l. calculate extensions for contractors, bidders or vendors  
6 based on price and quality when applicable;
- 7 m. alert contractors, vendors, and bidders of missing required  
8 data;
- 9 n. provide email notification to contractors, vendors, and  
10 bidders of issuance of bid advertisement and addenda;
- 11 o. provide commodity or classification codes as required by the  
12 contracting agency to allow for targeted notifications to contractors,  
13 vendors, and bidders;
- 14 p. provide system implementation services and training to  
15 public contracting units at no cost; and
- 16 q. offer scheduled training webinars for contractors, vendors,  
17 and bidders at no cost.
- 18
- 19 8. a. Notwithstanding any other law to the contrary, the  
20 regulations promulgated by the State Treasurer pursuant to section 5  
21 of P.L. , c. (C. ) (pending before the Legislature as this  
22 bill) shall include, but not be limited to, practices that,  
23 notwithstanding any other law to the contrary:
- 24 (1) convert the current statutory, regulatory, and policy  
25 procedures related to sealed bidding to an electronic procurement  
26 environment;
- 27 (2) authorize public contracting units to accept commercial  
28 standards for electronic forms of bid security; and
- 29 (3) establish minimum standards that shall be met by systems  
30 and services that provide and administer electronic procurement  
31 processes.
- 32 b. The State Treasurer shall also consult with: the Attorney  
33 General to develop safeguards to protect against collusion and bid  
34 rigging; the Division of Purchase and Property and the Division of  
35 Property Management and Construction in the Department of the  
36 Treasury to develop practices used for electronic procurement; and  
37 the Office of Information Technology in, but not of, the Department  
38 of the Treasury, to ensure the privacy and security of electronic  
39 transactions.
- 40 c. Notwithstanding any law, rule, or regulation to the contrary,  
41 plans and specifications for public works construction contracts that  
42 require the seal and signature of a professional engineer, architect,  
43 or land surveyor may be included in an electronic file used for  
44 electronic procurement as long as the original document from which  
45 the electronic file is derived contains a physical or electronic seal  
46 and signature as otherwise required by law. If the State Board of

1 Engineers and Land Surveyors and the New Jersey State Board of  
2 Architects adopt rules to permit digital seals and signatures, those  
3 rules shall supersede this subsection.  
4

5 9. Notwithstanding any provisions of chapters 32, 33, and 34 of  
6 Title 52 of the Revised Statutes to the contrary, the State, and any  
7 agency or instrumentality of the State, shall use electronic  
8 procurement processes for public works construction contracts  
9 whenever the project requires public advertisement pursuant to  
10 section 7 of P.L.1954, c.48 (C.52:34-12), in accordance with the  
11 provisions of P.L. , c. (C. ) (pending before the  
12 Legislature as this bill).  
13

14 10. Notwithstanding any provisions of the “Public School  
15 Contracts Law,” N.J.S.18A:18A-1 et seq. to the contrary, a board of  
16 education may use electronic procurement processes for public  
17 works construction contracts, pursuant to the requirements of  
18 section 4 of P.L. , c. (C. ) (pending before the Legislature as  
19 this bill). A board of education shall not incur any costs or fees  
20 related to the use of the electronic procurement process required by  
21 this section, including, but not limited to, any cost or fee related to  
22 the use or purchase of any required equipment or software.  
23

24 11. Notwithstanding any provisions of the “State College  
25 Contracts Law,” P.L.1986, c.43 (C.18A:64-52 et seq.) to the  
26 contrary, a State college shall use electronic procurement processes  
27 for public works construction contracts whenever the project  
28 requires public advertisement, in accordance with the provisions of  
29 P.L. , c. (C. ) (pending before the Legislature as this bill).  
30

31 12. Notwithstanding any provisions of the “County College  
32 Contracts Law,” P.L.1982, c.189 (C.18A:64A-25.1 et seq.) to the  
33 contrary, a county college may use electronic procurement  
34 processes for public works construction contracts, pursuant to the  
35 requirements of section 4 of P.L. , c. (C. ) (pending before the  
36 Legislature as this bill). A county college shall not incur any costs  
37 or fees related to the use of the electronic procurement process  
38 required by this section, including, but not limited to, any cost or  
39 fee related to the use or purchase of any required equipment or  
40 software.  
41

42 13. Notwithstanding any provisions of P.L.2007, c.137  
43 (C.52:18A-235 et seq.) to the contrary, the New Jersey Schools  
44 Development Authority shall use electronic procurement processes  
45 for public works construction contracts whenever the project  
46 requires public advertisement, in accordance with the provisions of  
47 P.L. , c. (C. ) (pending before the Legislature as this bill).

1 14. Notwithstanding any provisions of the “Local Public  
2 Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.) to the  
3 contrary, a contracting unit may use electronic procurement  
4 processes for public works construction contracts pursuant to the  
5 requirements of section 4 of P.L. , c. (C. ) (pending before  
6 the Legislature as this bill). A contracting unit shall not incur any  
7 costs or fees related to the use of the electronic procurement process  
8 required by this section, including, but not limited to, any cost or  
9 fee related to the use or purchase of any required equipment or  
10 software.

11

12 15. This act shall take effect on the first day of the thirteenth  
13 month next following enactment.

14

15

16

#### STATEMENT

17

18 This bill would require State contracting units, including State  
19 colleges, to use an electronic procurement process for public works  
20 construction contracts when the project requires public  
21 advertisement.

22 The bill requires the State Treasurer to promulgate regulations to  
23 effectuate the electronic procurement of public works construction  
24 as required in the bill. The regulations shall set forth each of the  
25 steps the State Treasurer deems appropriate to be taken by each  
26 State contracting unit for contracts that meet those criteria. The  
27 regulations shall also set forth a procedure to be followed for the  
28 awarding of a contract for the administration of the electronic  
29 procurement process.

30 The bill permits local units of government, county colleges, and  
31 school districts to use an electronic procurement process for public  
32 works construction contracts. The electronic construction  
33 procurement process to be used by those public entities will be the  
34 process developed by the Director of the Division of Local  
35 Government Services in the Department of Community Affairs by  
36 regulations promulgated for the electronic procurement practices  
37 authorized in the “Local Unit Electronic Procurement Act,”  
38 P.L.2018, c.156 (C.40A:11-4.7 et al.).

ASSEMBLY STATE AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3785

**STATE OF NEW JERSEY**

DATED: JUNE 17, 2020

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 3785.

This bill would require State contracting units, including State colleges, to use an electronic procurement process for public works construction contracts when the project requires public advertisement.

The bill requires the State Treasurer to promulgate regulations to effectuate the electronic procurement of public works construction as required in the bill. The regulations would set forth each of the steps the State Treasurer deems appropriate to be taken by each State contracting unit for contracts that meet those criteria. The regulations would also set forth a procedure to be followed for the awarding of a contract for the administration of the electronic procurement process.

The bill permits local units of government, county colleges, and school districts to use an electronic procurement process for public works construction contracts. The electronic construction procurement process to be used by those public entities will be the process developed by the Director of the Division of Local Government Services in the Department of Community Affairs by regulations promulgated for the electronic procurement practices authorized in the "Local Unit Electronic Procurement Act," P.L.2018, c.156 (C.40A:11-4.7 et al.).

This bill is identical to Senate Bill No. 2085.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3785**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 26, 2020

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 3785.

As amended by the committee, this bill would require State contracting units, including State colleges, to use an electronic procurement process for public works construction contracts when the project requires public advertisement.

The amended bill requires the State Treasurer to promulgate regulations to effectuate the electronic procurement of public works construction as required in the bill. The regulations would set forth each of the steps the State Treasurer deems appropriate to be taken by each State contracting unit for contracts that meet those criteria. The regulations would also set forth a procedure to be followed for the awarding of a contract for the administration of the electronic procurement process.

The amended bill permits local units of government, county colleges, and school districts to use an electronic procurement process for public works construction contracts. The electronic construction procurement process to be used by those public entities will be the process developed by the Director of the Division of Local Government Services in the Department of Community Affairs by regulations promulgated for the electronic procurement practices authorized in the "Local Unit Electronic Procurement Act," P.L.2018, c.156 (C.40A:11-4.7 et al.).

As amended and reported by the committee, Assembly Bill No. 3785 (1R) is identical to Senate Bill No. 2085 (1R), which also was amended and reported by the committee on this same date.

#### COMMITTEE AMENDMENTS:

The committee made the following amendments:

to section 7, amendments to subsection a. to provide that the regulations to be promulgated by the State Treasurer shall require that the electronic procurement processes meet certain criteria, which may include, but shall not be limited to, the requirements listed in that subsection, and to allow for a business or company that creates or provides software to effectuate electronic procurement, to provide those services pursuant to the bill if the business or company has

prior experience providing electronic procurement services to the State and to other public entities, including, but not limited to, experience prior to the effective date of the bill; and to subsection 1. to remove the language of that section requiring electronic procurement processes to be able to calculate extensions for contractors, bidders, or vendors based on price and quality, when applicable;

to sections 10, 12, and 14, which concern the “Public School Contracts Law,” the “County College Contracts Law,” and the “Local Public Contracts Law,” respectively, to remove language requiring that those public entities shall not incur any costs or fees related to the use of electronic procurement processes under the bill. This language is being removed because those sections are permissive, not mandatory, so there is no concern about the possibility of an unfunded mandate; and

to section 15 of the bill to shorten the time frame between the enactment of the bill and the effective date of the bill, from thirteen months next following enactment, to nine months next following enactment.

**FISCAL IMPACT:**

The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate annual expenditures for the Department of the Treasury to: (1) establish and implement the electronic construction procurement system; and (2) provide related training to State contracting units and other users of the system.

Under the bill, all State contracting units, including State colleges and the New Jersey Schools Development Authority, would be required to use the electronic procurement process developed by the State Treasurer for public works construction contracts when the project requires public advertisement.

Although the State may incur increased up-front expenditures associated with developing and implementing the electronic purchasing system, these potential costs could be offset by savings not achievable through the current public contracting process.

The bill is permissive for local contracting units, such as boards of education, county colleges, and municipalities.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 3785

### STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JULY 2, 2020

#### SUMMARY

**Synopsis:** “Electronic Construction Procurement Act.”

**Type of Impact:** Annual increases to State expenditures.

**Agencies Affected:** Department of the Treasury, State Institutions of Higher Education, the Schools Development Authority, Department of Community Affairs, Department of Law and Public Safety, Office of Information Technology

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate annual expenditures for the Department of the Treasury to: (1) establish and implement the electronic construction procurement system; and (2) provide related training to State contracting units and other users of the system.
- Under the bill, all State contracting units, including State colleges and the New Jersey Schools Development Authority, would be required to use the electronic procurement process developed by the State Treasurer for public works construction contracts when the project requires public advertisement.
- Although the State may incur increased up-front expenditures associated with developing and implementing the electronic purchasing system, these potential costs could be offset by savings not achievable through the current public contracting process.
- The bill is permissive for local contracting units, such as boards of education, county colleges, and municipalities.

## **BILL DESCRIPTION**

The bill would require State contracting units to use an electronic procurement process for public works construction contracts when the project requires public advertisement.

The bill requires the State Treasurer to promulgate regulations to effectuate the electronic procurement of public works construction. The regulations would set forth each of the steps the State Treasurer deems appropriate to be taken by each State contracting unit for contracts that meet certain criteria. The regulations would also set forth a procedure to be followed for the awarding of a contract for the administration of the electronic procurement process.

The bill permits local units of government, county colleges, and school districts to use an electronic procurement process for public works construction contracts. The electronic construction procurement process to be used by those public entities would be the process developed by the Director of the Division of Local Government Services in the Department of Community Affairs by regulations promulgated for the electronic procurement practices authorized in the Local Unit Electronic Procurement Act.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill will result in indeterminate additional expenditures for the Department of the Treasury to: (1) establish and implement the electronic construction procurement system; and (2) provide related training to State contracting units and other users of the system. However, the OLS lacks sufficient information to quantify the precise fiscal impacts of the bill.

#### **State Expenditure Increases**

The Department of the Treasury is expected to incur indeterminate start-up costs associated with developing the electronic system required by the bill. However, lacking information concerning the technical specifications of the electronic procurement process, the OLS cannot quantify the anticipated increase in expenditures. Additionally, the design complexity of the electronic system may influence whether the department outsources development to a contracted service provider or performs the work in-house. The two approaches would likely entail different costs, and it is unclear which approach the department would implement.

The Treasury is also expected to incur additional annual expenditures to provide training on the use of the electronic system to State contracting units and other users of the system. However, absent any information concerning the contents of such training, the OLS is unable to estimate the anticipated cost of this requirement.

Under the bill, all State contracting units, including State colleges and the New Jersey Schools Development Authority, would be required to use the electronic procurement process developed by the State Treasurer for public works construction contracts when the project requires public advertisement. Although State contracting units may incur additional start-up costs associated with implementing the system, these potential costs could be offset by savings not achievable

through the current public contracting process. Specifically, the use of a technology-based procurement system may allow State contracting units to allocate staff more efficiently and reduce costs associated with the current paper-based public contracting and purchasing system. Electronic purchasing systems also could increase the transparency of the contracting and bidding process, achieve value and promote competition, expand the supplier base, maintain financial controls, measure contractor performance, and promote efficiency in workflow and approval authority.

#### Impact on Local Contracting Units

The bill is permissive for local contracting units, such as boards of education, county colleges, and municipalities. The electronic construction procurement process to be used by those local public entities would be the process developed by the Director of the Division of Local Government Services by regulations promulgated for the electronic procurement practices authorized in the Local Unit Electronic Procurement Act. Due to the passage of that act, the OLS estimates the bill to have a negligible impact on local contracting units.

*Section: Local Government*

*Analyst: Benjamin A. Levy  
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III  
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 (C.52:13B-6 et seq.).

# Governor Murphy Takes Action on Legislation

07/16/2020

**TRENTON** - Today, Governor Murphy signed the following bills into law:

**S-2085/A-3785 (Sweeney, Oroho/Greenwald, Mazzeo, Pinkin)** "Electronic Construction Procurement Act."

**S-973/A-1408 (Ruiz, Singleton/Lopez, Reynolds-Jackson, Timberlake)** Requires Commissioner of Labor and Workforce Development to establish apprenticeship mentoring program for women, minorities, and persons with disabilities.