

18A:18A-21

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 191

NJSA: 18A:18A-21 (Provides uniform period for certain contracting entities to issue changes to bid advertisements)

BILL NO: S1937 (Substituted for A3709)

SPONSOR(S): Doria and others

DATE INTRODUCED: October 14, 2004

COMMITTEE: **ASSEMBLY:** State Government
SENATE: State Government

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 20, 2005

SENATE: May 12, 2005

DATE OF APPROVAL: August 18, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (1st reprint enacted)

S1937

[SPONSOR'S STATEMENT:](#) (Begins on page 9 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A3709

[SPONSOR'S STATEMENT:](#) (Begins on page 9 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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No

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No

IS 9/10/07

P.L. 2005, CHAPTER 191, *approved August 18, 2005*
Senate, No. 1937 (*First Reprint*)

1 **AN ACT** concerning certain contract bidding requirements and
2 amending various parts of statutory law.

3

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

6

7 1. N.J.S.18A:18A-21 is amended to read as follows:

8 18A:18A-21. a. Except as provided in section 5 of P.L.1985,
9 c.490 (C.18A:18A-55), all advertisements for bids shall be published
10 in an official newspaper sufficiently in advance of the date fixed for
11 receiving the bids to promote competitive bidding, but in no event less
12 than 10 days prior to such date.

13 b. The advertisement shall designate the manner of submitting and
14 of receiving the bids and the time and place at which the bids will be
15 received. If the published specifications provide for receipt of bids by
16 mail, those bids which are mailed to the board of education shall be
17 sealed and shall be opened only for examination at such time and place
18 as all bids received are unsealed and announced. At such time and
19 place the purchasing agent of the board of education shall publicly
20 receive the bids and thereupon immediately proceed to unseal them
21 and publicly announce the contents, which announcement shall be
22 made in the presence of any parties bidding or their agents who are
23 then and there present. A proper record of the prices and terms shall
24 be made in the minutes of the board. No bids shall be received after
25 the time designated in the advertisement.

26 c. Notice of revisions or addenda to advertisements or bid
27 documents shall be provided as follows:

28 (1) For all contracts except those for construction work, notice
29 shall be published no later than **[five]** seven days, Saturdays, Sundays,
30 and holidays excepted, prior to the date for acceptance of bids, in an
31 official newspaper of the board of education and be provided to any
32 person who has submitted a bid or who has received a bid package, in
33 one of the following ways: (a) in writing by certified mail or (b) by
34 certified facsimile transmission, meaning that the sender's facsimile
35 machine produces a receipt showing date and time of transmission and
36 that the transmission was successful or (c) by a delivery service that
37 provides certification of delivery to the sender.

38 (2) For all contracts for construction work, notice shall be
39 provided no later than seven days, Saturdays, Sundays, or holidays
40 excepted, prior to the date for acceptance of bids, to any person who

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSG committee amendments adopted March 7, 2005.

1 has submitted a bid or who has received a bid package in any of the
2 following ways: i) in writing by certified mail or ii) by certified
3 facsimile transmission, meaning that the sender's facsimile machine
4 produces a receipt showing date and time of transmission and that the
5 transmission was successful or iii) by a delivery service that provides
6 certification of delivery to the sender.

7 d. Failure of the board of education to advertise for the receipt of
8 bids or to provide proper notification of revisions or addenda to
9 advertisements or bid documents related to bids as prescribed by this
10 section shall prevent the board of education from accepting the bids
11 and require the readvertisement for bids pursuant to subsection a. of
12 this section. Failure to obtain a receipt when good faith notice is sent
13 or delivered to the address or telephone facsimile number on file with
14 the board of education shall not be considered failure by the board of
15 education to provide notice.

16 (cf: P.L.1999, c.440, s.67)

17
18 2. Section 14 of P.L.1986, c.43 (C.18A:64-65) is amended to read
19 as follows:

20 14. a. All advertisements for bids shall be published in a legal
21 newspaper sufficiently in advance of the date fixed for receiving the
22 bids to promote competitive bidding but in no event less than 10 days
23 prior to that date for any construction projects or any other contract
24 or purchase. The advertisement shall designate the manner of
25 submitting and of receiving the bids and the time and place at which
26 the bids will be received. If the published specifications provide for
27 receipt of bids by mail, those bids which are mailed to the State
28 college shall be sealed and shall be opened only at such time and place
29 as all bids received are unsealed and announced. At that time and
30 place, the contracting agent of the State college shall publicly receive
31 the bids and thereupon immediately proceed to unseal them and
32 publicly announce the contents, which announcement shall be made in
33 the presence of any parties bidding or their agents who are then and
34 there present. A proper record of the prices and terms shall be made.
35 No bids shall be received after the time designated in the
36 advertisement.

37 b. Notice of revisions or addenda to advertisements or bid
38 documents relating to bids shall be published in a legal newspaper or
39 newspapers no later than seven days, Saturdays, Sundays and holidays
40 excepted, prior to the bid due date. The notice shall be provided to
41 any person who has submitted a bid or who has received a bid
42 package, in one of the following ways: (a) in writing by certified mail
43 or (b) by certified facsimile transmission, meaning that the sender's
44 facsimile machine produces a receipt showing date and time of
45 transmission and that the transmission was successful or (c) by a
46 delivery service that provides certification of delivery to the sender.

1 Failure to advertise or provide proper notification of revisions or
2 addenda to advertisements or bid documents related to bids as
3 prescribed by this section shall prevent the acceptance of bids and
4 require the readvertisement for bids.

5 Failure to obtain a receipt when good faith notice is sent or
6 delivered to the address or telephone facsimile number on file with the
7 ¹[board of education] State college¹ shall not be considered failure by
8 the ¹[board of education] State college¹ to provide notice.

9 (cf: P.L.1994, c.48, s.115)

10
11 3. Section 14 of P.L.1982, c.189 (C.18A:64A-25.14) is amended
12 to read as follows:

13 14. a. All advertisements for bids shall be published in a legal
14 newspaper sufficiently in advance of the date fixed for receiving the
15 bids to promote competitive bidding but in no event less than 10 days
16 prior to such date. The advertisement shall designate the manner of
17 submitting and of receiving the bids and the time and place at which
18 the bids will be received. If the published specifications provide for
19 receipt of bids by mail, those bids which are mailed to the county
20 college shall be sealed and shall be opened only at such time and place
21 as all bids received are unsealed and announced. At such time and
22 place, the contracting agent of the county college shall publicly receive
23 the bids and thereupon immediately proceed to unseal them and
24 publicly announce the contents, which announcement shall be made in
25 the presence of any parties bidding or their agents who are then and
26 there present. A proper record of the prices and terms shall be made.
27 No bids shall be received after the time designated in the
28 advertisement.

29 b. Notice of revisions or addenda to advertisements or bid
30 documents relating to bids shall be published in a legal newspaper no
31 later than seven days, Saturdays, Sundays and holidays excepted, prior
32 to the bid due date. The notice shall be provided to any person who
33 has submitted a bid or who has received a bid package, in one of the
34 following ways: (a) in writing by certified mail or (b) by certified
35 facsimile transmission, meaning that the sender's facsimile machine
36 produces a receipt showing date and time of transmission and that the
37 transmission was successful or (c) by a delivery service that provides
38 certification of delivery to the sender. Failure to advertise or provide
39 proper notification of revisions or addenda to advertisements or bid
40 documents related to bids as prescribed by this section shall prevent
41 the acceptance of bids and require the readvertisement for bids.
42 Failure to obtain a receipt when good faith notice is sent or delivered
43 to the address or telephone facsimile number on file with the ¹[board
44 of education] county college¹ shall not be considered failure by the
45 ¹[board of education] county college¹ to provide notice.

46 (cf: P.L.1982, c.189, s.14)

1 4. Section 52 of P.L.2000, c.72 (C.34:1B-5.7) is amended to read
2 as follows:

3 52. a. In undertaking any school facilities projects where the cost
4 of construction, reconstruction, rehabilitation or improvement will
5 exceed \$25,000, the authority may prepare, or cause to be prepared,
6 separate plans and specifications for: (1) the plumbing and gas fitting
7 and all work and materials kindred thereto, (2) the steam and hot
8 water heating and ventilating apparatus, steam power plants and all
9 work and materials kindred thereto, (3) the electrical work, (4)
10 structural steel and miscellaneous iron work and materials, and (5) all
11 general construction, which shall include all other work and materials
12 required to complete the building.

13 b. The authority shall advertise and receive (1) separate bids for
14 each of the branches of work specified in subsection a. of this section;
15 or (2) bids for all the work and materials required to complete the
16 school facilities project to be included in a single overall contract, in
17 which case there shall be set forth in the bid the name or names of all
18 subcontractors to whom the bidder will subcontract for the furnishing
19 of any of the work and materials specified in branches (1) through (4)
20 in subsection a. of this section; or (3) both.

21 c. Contracts shall be awarded as follows: (1) if bids are received in
22 accordance with paragraph (1) of subsection b. of this section, the
23 authority shall determine the responsible bidder for each branch whose
24 bid, conforming to the invitation for bids, will be most advantageous
25 to the authority, price and other factors considered; (2) if bids are
26 received in accordance with paragraph (2) of subsection b. of this
27 section, the authority shall determine the responsible bidder for the
28 single overall contract whose bid, conforming to the invitation for
29 bids, will be the most advantageous to the authority, price and other
30 factors considered; or (3) if bids are received in accordance with
31 paragraph (3) of subsection b. of this section, the authority shall award
32 separate contracts for each branch of work specified in subsection a.
33 of this section if the sum total of the amounts bid by the responsible
34 bidders for each branch, as determined pursuant to paragraph (1) of
35 this subsection, is less than the amount bid by the responsible bidder
36 for all of the work and materials, as determined pursuant to paragraph
37 (2) of this subsection; but if the sum total of the amounts bid by the
38 responsible bidder for each branch, as determined pursuant to
39 paragraph (1) of this subsection is not less than the amount bid by the
40 responsible bidder for all of the work and materials, as determined
41 pursuant to paragraph (2) of this subsection, the authority shall award
42 a single over-all contract to the responsible bidder for all of the work
43 and materials as determined pursuant to paragraph (2) of this
44 subsection.

45 d. For the purposes of this section, "other factors" means the
46 evaluation by the authority of the ability of the single contractor or the

1 abilities of the multiple contractors to complete the contract in
2 accordance with its requirements and includes requirements relating to
3 the experience and qualifications of the contractor or contractors and
4 their key personnel in projects of similar type and complexity; the
5 performance of the contractor or contractors on prior contracts with
6 the authority or the State; the experience and capability of the
7 contractor or contractors and their key personnel in respect to any
8 special technologies, techniques or expertise that the project may
9 require; the contractor's understanding of the means and methods
10 needed to complete the project on time and within budget; the
11 timetable to complete the project; the contractor's plan for quality
12 assurance and control; and other similar types of factors. The "other
13 factors" to be considered in evaluating bids and the weights assigned
14 to price and these "other factors" shall be determined by the authority
15 prior to the advertisement for bids for school facilities projects. In its
16 evaluation of bids, the consideration given to price by the authority
17 shall be at least equal to the consideration given to the combination of
18 all "other factors."

19 e. The authority shall require from all contractors to which it
20 awards contracts pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.), the
21 delivery of a payment performance bond issued in accordance with
22 N.J.S.2A:44-143 et seq.

23 f. The authority shall adopt regulations to implement this section
24 which shall include, but not be limited to, the procedural requirements
25 for: (1) the evaluation and weighting of price and "other factors" in the
26 awarding of contracts; and (2) the appealing of a prequalification
27 classification and rating, a bid rejection and a contract award
28 recommendation.

29 g. Each evaluation committee selected by the authority to review
30 and evaluate bids shall, at a minimum, contain a representative from
31 the district in which the school facilities project is located if such
32 district elects to participate.

33 h. ¹All advertisements for bids shall be published in a legal
34 newspaper sufficiently in advance of the date fixed for receiving the
35 bids to promote competitive bidding but in no event less than 10 days
36 prior to such date.¹ Notice of revisions or addenda to advertisements
37 or bid documents relating to bids shall be advertised to best give
38 notice to bidders no later than seven days, Saturdays, Sundays and
39 holidays excepted, prior to the bid due date. The notice shall be
40 provided to any person who has submitted a bid or who has received
41 a bid package, in one of the following ways: (a) in writing by certified
42 mail or (b) by certified facsimile transmission, meaning that the
43 sender's facsimile machine produces a receipt showing date and time
44 of transmission and that the transmission was successful or (c) by a
45 delivery service that provides certification of delivery to the sender.
46 Failure to advertise or provide proper notification of revisions or

1 addenda to advertisements or bid documents related to bids as
2 prescribed by this section shall prevent the acceptance of bids and
3 require the readvertisement for bids. Failure to obtain a receipt when
4 good faith notice is sent or delivered to the address or telephone
5 facsimile number on file with the ¹[board of education] authority¹
6 shall not be considered failure by the ¹[board of education] authority¹
7 to provide notice.

8 (cf: P.L.2000, c.72, s.52)

9

10 5. Section 23 of P.L.1971, c.198 (C.40A:11-23) is amended to
11 read as follows:

12 23. a. All advertisements for bids shall be published in an official
13 newspaper of the contracting unit sufficiently in advance of the date
14 fixed for receiving the bids to promote competitive bidding, but in no
15 event less than 10 days prior to such date; except that all
16 advertisements for bids on contracts for the collection and disposal of
17 municipal solid waste shall be published in an official newspaper of the
18 contracting unit circulating in the county or municipality, and in at
19 least one newspaper of general circulation published in the State,
20 sufficiently in advance of the date fixed for receiving the bids to
21 promote competitive bidding, but not less than 60 days prior to that
22 date.

23 b. The advertisement shall designate the manner of submitting and
24 the method of receiving the bids and the time and place at which the
25 bids will be received. If the published specifications provide for
26 receipt of bids by mail, those bids which are mailed to the contracting
27 unit shall be sealed and shall only be opened for examination at such
28 time and place as all bids received are unsealed and announced. At
29 such time and place the contracting agent of the contracting unit shall
30 publicly receive the bids, and thereupon immediately proceed to unseal
31 them and publicly announce the contents, which announcement shall
32 be made in the presence of any parties bidding or their agents, who are
33 then and there present, and shall also make proper record of the prices
34 and terms, upon the minutes of the governing body, if the award is to
35 be made by the governing body of the contracting unit, or in a book
36 kept for that purpose, if the award is to be made by other than the
37 governing body, and in such latter case it shall be reported to the
38 governing body of the contracting unit for its action thereon, when
39 such action thereon is required. No bids shall be received after the time
40 designated in the advertisement.

41 c. Notice of revisions or addenda to advertisements or bid
42 documents shall be provided as follows:

43 1) For all contracts except those for construction work and
44 municipal solid waste collection and disposal service, notice shall be
45 published no later than ~~[five]~~ seven days, Saturdays, Sundays, and
46 holidays excepted, prior to the date for acceptance of bids, in an

1 official newspaper of the contracting unit and be provided to any
2 person who has submitted a bid or who has received a bid package, in
3 one of the following ways: i) in writing by certified mail or ii) by
4 certified facsimile transmission, meaning that the sender's facsimile
5 machine produces a receipt showing date and time of transmission and
6 that the transmission was successful or iii) by a delivery service that
7 provides certification of delivery to the sender.

8 2) For all contracts for construction work, notice shall be provided
9 no later than seven days, Saturdays, Sundays, or holidays excepted,
10 prior to the date for acceptance of bids, to any person who has
11 submitted a bid or who has received a bid package in any of the
12 following ways: i) in writing by certified mail or ii) by certified
13 facsimile transmission, meaning that the sender's facsimile machine
14 produces a receipt showing date and time of transmission and that the
15 transmission was successful or iii) by a delivery service that provides
16 certification of delivery to the sender.

17 3) For municipal solid waste collection and disposal contracts,
18 notice shall be published in an official newspaper of the contracting
19 unit and in at least one newspaper of general circulation published in
20 the State no later than [five] seven days, Saturdays, Sundays, and
21 holidays excepted, prior to the date for acceptance of bids.

22 d. Failure of the contracting unit to advertise for the receipt of bids
23 or to provide proper notification of revisions or addenda to
24 advertisements or bid documents related to bids as prescribed by this
25 section shall prevent the contracting unit from accepting the bids and
26 require the readvertisement for bids pursuant to subsection a. of this
27 section. Failure to obtain a receipt when good faith notice is sent or
28 delivered to the address or telephone facsimile number on file with the
29 contracting unit shall not be considered failure by the contracting unit
30 to provide notice.

31 (cf: P.L.1999, c.440, s.31)

32
33 6. Section 7 of P.L.1954, c.48 (C.52:34-12) is amended to read as
34 follows:

35 7. Whenever advertising is required: (a) specifications and
36 invitations for bids shall permit such full and free competition as is
37 consistent with the procurement of supplies and services necessary to
38 meet the requirements of the using agency and shall, wherever
39 practicable, include such factors as life-cycle costs, sliding percentage
40 preference scales, or other similar analysis as shall be deemed effective
41 by the Director of the Division of Purchase and Property, hereinafter
42 referred to as the director, (b) the advertisement for bids shall be in
43 such newspaper or newspapers selected by the State Treasurer as will
44 best give notice thereof to bidders and shall be sufficiently in advance
45 of the purchase or contract to promote competitive bidding; (c) the
46 advertisement shall designate the time and place when and where

1 sealed proposals shall be received and publicly opened and read, the
2 amount of the cash or certified check, if any, which must accompany
3 each bid, and such other terms as the State Treasurer may deem
4 proper; (d) notice of revisions or addenda to advertisements or bid
5 documents relating to bids shall be published in a newspaper or
6 newspapers as selected by the State Treasurer to best give notice to
7 bidders and sent to the prospective bidder no later than ~~five~~ seven
8 days, Saturdays, Sundays and holidays excepted, prior to the bid due
9 date; (e) failure to advertise for the receipt of bids or to provide
10 proper notification of revisions or addenda to advertisements or bid
11 documents related to bids as prescribed by subsection (d) of this
12 section shall prevent the acceptance of bids and require the
13 readvertisement for bids; (f) for any procurement, the State Treasurer
14 or the director may negotiate with bidders, after bid opening, the final
15 terms and conditions of any procurement, including price; such ability
16 to so negotiate must be expressly set forth in the applicable invitation
17 to bid; (g) award shall be made with reasonable promptness, after
18 negotiation with bidders where authorized, by written notice to that
19 responsible bidder whose bid, conforming to the invitation for bids,
20 will be most advantageous to the State, price and other factors
21 considered. Any or all bids may be rejected when the State Treasurer
22 or the Director of the Division of Purchase and Property determines
23 that it is in the public interest so to do. The State Treasurer or
24 designee may adopt, pursuant to the "Administrative Procedure Act,"
25 P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as
26 may be necessary to implement the provisions of this section.

27 This section shall apply to all bids received on and after the date of
28 enactment of P.L.1999, c.440.

29 (cf: P.L.1999, c.440, s.96)

30

31 7. This act shall take effect immediately but shall be inoperative
32 until the 90th day after enactment.

33

34

35

36

37 Provides uniform period for certain contracting entities to issue
38 changes or addenda to bid advertisements.

SENATE, No. 1937

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED OCTOBER 14, 2004

Sponsored by:

Senator JOSEPH V. DORIA, JR.

District 31 (Hudson)

Senator NICHOLAS ASSELTA

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Provides uniform period for certain contracting entities to issue changes or addenda to bid advertisements.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/15/2005)

S1937 DORIA, ASSELTA

2

1 AN ACT concerning certain contract bidding requirements and
2 amending various parts of statutory law.

3

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

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7 1. N.J.S.18A:18A-21 is amended to read as follows:

8 18A:18A-21. a. Except as provided in section 5 of P.L.1985,
9 c.490 (C.18A:18A-55), all advertisements for bids shall be published
10 in an official newspaper sufficiently in advance of the date fixed for
11 receiving the bids to promote competitive bidding, but in no event less
12 than 10 days prior to such date.

13 b. The advertisement shall designate the manner of submitting and
14 of receiving the bids and the time and place at which the bids will be
15 received. If the published specifications provide for receipt of bids by
16 mail, those bids which are mailed to the board of education shall be
17 sealed and shall be opened only for examination at such time and place
18 as all bids received are unsealed and announced. At such time and
19 place the purchasing agent of the board of education shall publicly
20 receive the bids and thereupon immediately proceed to unseal them
21 and publicly announce the contents, which announcement shall be
22 made in the presence of any parties bidding or their agents who are
23 then and there present. A proper record of the prices and terms shall
24 be made in the minutes of the board. No bids shall be received after
25 the time designated in the advertisement.

26 c. Notice of revisions or addenda to advertisements or bid
27 documents shall be provided as follows:

28 (1) For all contracts except those for construction work, notice
29 shall be published no later than [~~five~~] seven days, Saturdays, Sundays,
30 and holidays excepted, prior to the date for acceptance of bids, in an
31 official newspaper of the board of education and be provided to any
32 person who has submitted a bid or who has received a bid package, in
33 one of the following ways: (a) in writing by certified mail or (b) by
34 certified facsimile transmission, meaning that the sender's facsimile
35 machine produces a receipt showing date and time of transmission and
36 that the transmission was successful or (c) by a delivery service that
37 provides certification of delivery to the sender.

38 (2) For all contracts for construction work, notice shall be
39 provided no later than seven days, Saturdays, Sundays, or holidays
40 excepted, prior to the date for acceptance of bids, to any person who
41 has submitted a bid or who has received a bid package in any of the
42 following ways: i) in writing by certified mail or ii) by certified
43 facsimile transmission, meaning that the sender's facsimile machine

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 produces a receipt showing date and time of transmission and that the
2 transmission was successful or iii) by a delivery service that provides
3 certification of delivery to the sender.

4 d. Failure of the board of education to advertise for the receipt of
5 bids or to provide proper notification of revisions or addenda to
6 advertisements or bid documents related to bids as prescribed by this
7 section shall prevent the board of education from accepting the bids
8 and require the readvertisement for bids pursuant to subsection a. of
9 this section. Failure to obtain a receipt when good faith notice is sent
10 or delivered to the address or telephone facsimile number on file with
11 the board of education shall not be considered failure by the board of
12 education to provide notice.

13 (cf: P.L.1999, c.440, s.67)

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15 2. Section 14 of P.L.1986, c.43 (C.18A:64-65) is amended to read
16 as follows:

17 14. a. All advertisements for bids shall be published in a legal
18 newspaper sufficiently in advance of the date fixed for receiving the
19 bids to promote competitive bidding but in no event less than 10 days
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21 or purchase. The advertisement shall designate the manner of
22 submitting and of receiving the bids and the time and place at which
23 the bids will be received. If the published specifications provide for
24 receipt of bids by mail, those bids which are mailed to the State
25 college shall be sealed and shall be opened only at such time and place
26 as all bids received are unsealed and announced. At that time and
27 place, the contracting agent of the State college shall publicly receive
28 the bids and thereupon immediately proceed to unseal them and
29 publicly announce the contents, which announcement shall be made in
30 the presence of any parties bidding or their agents who are then and
31 there present. A proper record of the prices and terms shall be made.
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33 advertisement.

34 b. Notice of revisions or addenda to advertisements or bid
35 documents relating to bids shall be published in a legal newspaper or
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4

1 require the readvertisement for bids.

2 Failure to obtain a receipt when good faith notice is sent or
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28 later than seven days, Saturdays, Sundays and holidays excepted, prior
29 to the bid due date. The notice shall be provided to any person who
30 has submitted a bid or who has received a bid package, in one of the
31 following ways: (a) in writing by certified mail or (b) by certified
32 facsimile transmission, meaning that the sender's facsimile machine
33 produces a receipt showing date and time of transmission and that the
34 transmission was successful or (c) by a delivery service that provides
35 certification of delivery to the sender. Failure to advertise or provide
36 proper notification of revisions or addenda to advertisements or bid
37 documents related to bids as prescribed by this section shall prevent
38 the acceptance of bids and require the readvertisement for bids.
39 Failure to obtain a receipt when good faith notice is sent or delivered
40 to the address or telephone facsimile number on file with the board of
41 education shall not be considered failure by the board of education to
42 provide notice.

43 (cf: P.L.1982, c.189, s.14)

44

45 4. Section 52 of P.L.2000, c.72 (C.34:1B-5.7) is amended to read
46 as follows:

1 52. a. In undertaking any school facilities projects where the cost
2 of construction, reconstruction, rehabilitation or improvement will
3 exceed \$25,000, the authority may prepare, or cause to be prepared,
4 separate plans and specifications for: (1) the plumbing and gas fitting
5 and all work and materials kindred thereto, (2) the steam and hot
6 water heating and ventilating apparatus, steam power plants and all
7 work and materials kindred thereto, (3) the electrical work, (4)
8 structural steel and miscellaneous iron work and materials, and (5) all
9 general construction, which shall include all other work and materials
10 required to complete the building.

11 b. The authority shall advertise and receive (1) separate bids for
12 each of the branches of work specified in subsection a. of this section;
13 or (2) bids for all the work and materials required to complete the
14 school facilities project to be included in a single overall contract, in
15 which case there shall be set forth in the bid the name or names of all
16 subcontractors to whom the bidder will subcontract for the furnishing
17 of any of the work and materials specified in branches (1) through (4)
18 in subsection a. of this section; or (3) both.

19 c. Contracts shall be awarded as follows: (1) if bids are received in
20 accordance with paragraph (1) of subsection b. of this section, the
21 authority shall determine the responsible bidder for each branch whose
22 bid, conforming to the invitation for bids, will be most advantageous
23 to the authority, price and other factors considered; (2) if bids are
24 received in accordance with paragraph (2) of subsection b. of this
25 section, the authority shall determine the responsible bidder for the
26 single overall contract whose bid, conforming to the invitation for
27 bids, will be the most advantageous to the authority, price and other
28 factors considered; or (3) if bids are received in accordance with
29 paragraph (3) of subsection b. of this section, the authority shall award
30 separate contracts for each branch of work specified in subsection a.
31 of this section if the sum total of the amounts bid by the responsible
32 bidders for each branch, as determined pursuant to paragraph (1) of
33 this subsection, is less than the amount bid by the responsible bidder
34 for all of the work and materials, as determined pursuant to paragraph
35 (2) of this subsection; but if the sum total of the amounts bid by the
36 responsible bidder for each branch, as determined pursuant to
37 paragraph (1) of this subsection is not less than the amount bid by the
38 responsible bidder for all of the work and materials, as determined
39 pursuant to paragraph (2) of this subsection, the authority shall award
40 a single over-all contract to the responsible bidder for all of the work
41 and materials as determined pursuant to paragraph (2) of this
42 subsection.

43 d. For the purposes of this section, "other factors" means the
44 evaluation by the authority of the ability of the single contractor or the
45 abilities of the multiple contractors to complete the contract in
46 accordance with its requirements and includes requirements relating to

1 the experience and qualifications of the contractor or contractors and
2 their key personnel in projects of similar type and complexity; the
3 performance of the contractor or contractors on prior contracts with
4 the authority or the State; the experience and capability of the
5 contractor or contractors and their key personnel in respect to any
6 special technologies, techniques or expertise that the project may
7 require; the contractor's understanding of the means and methods
8 needed to complete the project on time and within budget; the
9 timetable to complete the project; the contractor's plan for quality
10 assurance and control; and other similar types of factors. The "other
11 factors" to be considered in evaluating bids and the weights assigned
12 to price and these "other factors" shall be determined by the authority
13 prior to the advertisement for bids for school facilities projects. In its
14 evaluation of bids, the consideration given to price by the authority
15 shall be at least equal to the consideration given to the combination of
16 all "other factors."

17 e. The authority shall require from all contractors to which it
18 awards contracts pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.), the
19 delivery of a payment performance bond issued in accordance with
20 N.J.S.2A:44-143 et seq.

21 f. The authority shall adopt regulations to implement this section
22 which shall include, but not be limited to, the procedural requirements
23 for: (1) the evaluation and weighting of price and "other factors" in the
24 awarding of contracts; and (2) the appealing of a prequalification
25 classification and rating, a bid rejection and a contract award
26 recommendation.

27 g. Each evaluation committee selected by the authority to review
28 and evaluate bids shall, at a minimum, contain a representative from
29 the district in which the school facilities project is located if such
30 district elects to participate.

31 h. Notice of revisions or addenda to advertisements or bid
32 documents relating to bids shall be advertised to best give notice to
33 bidders no later than seven days, Saturdays, Sundays and holidays
34 excepted, prior to the bid due date. The notice shall be provided to
35 any person who has submitted a bid or who has received a bid
36 package, in one of the following ways: (a) in writing by certified mail
37 or (b) by certified facsimile transmission, meaning that the sender's
38 facsimile machine produces a receipt showing date and time of
39 transmission and that the transmission was successful or (c) by a
40 delivery service that provides certification of delivery to the sender.
41 Failure to advertise or provide proper notification of revisions or
42 addenda to advertisements or bid documents related to bids as
43 prescribed by this section shall prevent the acceptance of bids and
44 require the readvertisement for bids. Failure to obtain a receipt when
45 good faith notice is sent or delivered to the address or telephone
46 facsimile number on file with the board of education shall not be

1 considered failure by the board of education to provide notice.

2 (cf: P.L.2000, c.72, s.52)

3

4 5. Section 23 of P.L.1971, c.198 (C.40A:11-23) is amended to
5 read as follows:

6 23. a. All advertisements for bids shall be published in an official
7 newspaper of the contracting unit sufficiently in advance of the date
8 fixed for receiving the bids to promote competitive bidding, but in no
9 event less than 10 days prior to such date; except that all
10 advertisements for bids on contracts for the collection and disposal of
11 municipal solid waste shall be published in an official newspaper of the
12 contracting unit circulating in the county or municipality, and in at
13 least one newspaper of general circulation published in the State,
14 sufficiently in advance of the date fixed for receiving the bids to
15 promote competitive bidding, but not less than 60 days prior to that
16 date.

17 b. The advertisement shall designate the manner of submitting and
18 the method of receiving the bids and the time and place at which the
19 bids will be received. If the published specifications provide for
20 receipt of bids by mail, those bids which are mailed to the contracting
21 unit shall be sealed and shall only be opened for examination at such
22 time and place as all bids received are unsealed and announced. At
23 such time and place the contracting agent of the contracting unit shall
24 publicly receive the bids, and thereupon immediately proceed to unseal
25 them and publicly announce the contents, which announcement shall
26 be made in the presence of any parties bidding or their agents, who are
27 then and there present, and shall also make proper record of the prices
28 and terms, upon the minutes of the governing body, if the award is to
29 be made by the governing body of the contracting unit, or in a book
30 kept for that purpose, if the award is to be made by other than the
31 governing body, and in such latter case it shall be reported to the
32 governing body of the contracting unit for its action thereon, when
33 such action thereon is required. No bids shall be received after the time
34 designated in the advertisement.

35 c. Notice of revisions or addenda to advertisements or bid
36 documents shall be provided as follows:

37 1) For all contracts except those for construction work and
38 municipal solid waste collection and disposal service, notice shall be
39 published no later than [~~five~~] seven days, Saturdays, Sundays, and
40 holidays excepted, prior to the date for acceptance of bids, in an
41 official newspaper of the contracting unit and be provided to any
42 person who has submitted a bid or who has received a bid package, in
43 one of the following ways: i) in writing by certified mail or ii) by
44 certified facsimile transmission, meaning that the sender's facsimile
45 machine produces a receipt showing date and time of transmission and
46 that the transmission was successful or iii) by a delivery service that

1 provides certification of delivery to the sender.

2 2) For all contracts for construction work, notice shall be provided
3 no later than seven days, Saturdays, Sundays, or holidays excepted,
4 prior to the date for acceptance of bids, to any person who has
5 submitted a bid or who has received a bid package in any of the
6 following ways: i) in writing by certified mail or ii) by certified
7 facsimile transmission, meaning that the sender's facsimile machine
8 produces a receipt showing date and time of transmission and that the
9 transmission was successful or iii) by a delivery service that provides
10 certification of delivery to the sender.

11 3) For municipal solid waste collection and disposal contracts,
12 notice shall be published in an official newspaper of the contracting
13 unit and in at least one newspaper of general circulation published in
14 the State no later than [five] seven days, Saturdays, Sundays, and
15 holidays excepted, prior to the date for acceptance of bids.

16 d. Failure of the contracting unit to advertise for the receipt of bids
17 or to provide proper notification of revisions or addenda to
18 advertisements or bid documents related to bids as prescribed by this
19 section shall prevent the contracting unit from accepting the bids and
20 require the readvertisement for bids pursuant to subsection a. of this
21 section. Failure to obtain a receipt when good faith notice is sent or
22 delivered to the address or telephone facsimile number on file with the
23 contracting unit shall not be considered failure by the contracting unit
24 to provide notice.

25 (cf: P.L.1999, c.440, s.31)

26

27 6. Section 7 of P.L.1954, c.48 (C.52:34-12) is amended to read as
28 follows:

29 7. Whenever advertising is required: (a) specifications and
30 invitations for bids shall permit such full and free competition as is
31 consistent with the procurement of supplies and services necessary to
32 meet the requirements of the using agency and shall, wherever
33 practicable, include such factors as life-cycle costs, sliding percentage
34 preference scales, or other similar analysis as shall be deemed effective
35 by the Director of the Division of Purchase and Property, hereinafter
36 referred to as the director, (b) the advertisement for bids shall be in
37 such newspaper or newspapers selected by the State Treasurer as will
38 best give notice thereof to bidders and shall be sufficiently in advance
39 of the purchase or contract to promote competitive bidding; (c) the
40 advertisement shall designate the time and place when and where
41 sealed proposals shall be received and publicly opened and read, the
42 amount of the cash or certified check, if any, which must accompany
43 each bid, and such other terms as the State Treasurer may deem
44 proper; (d) notice of revisions or addenda to advertisements or bid
45 documents relating to bids shall be published in a newspaper or
46 newspapers as selected by the State Treasurer to best give notice to

1 bidders and sent to the prospective bidder no later than [five] seven
2 days, Saturdays, Sundays and holidays excepted, prior to the bid due
3 date; (e) failure to advertise for the receipt of bids or to provide
4 proper notification of revisions or addenda to advertisements or bid
5 documents related to bids as prescribed by subsection (d) of this
6 section shall prevent the acceptance of bids and require the
7 readvertisement for bids; (f) for any procurement, the State Treasurer
8 or the director may negotiate with bidders, after bid opening, the final
9 terms and conditions of any procurement, including price; such ability
10 to so negotiate must be expressly set forth in the applicable invitation
11 to bid; (g) award shall be made with reasonable promptness, after
12 negotiation with bidders where authorized, by written notice to that
13 responsible bidder whose bid, conforming to the invitation for bids,
14 will be most advantageous to the State, price and other factors
15 considered. Any or all bids may be rejected when the State Treasurer
16 or the Director of the Division of Purchase and Property determines
17 that it is in the public interest so to do. The State Treasurer or
18 designee may adopt, pursuant to the "Administrative Procedure Act,"
19 P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as
20 may be necessary to implement the provisions of this section.

21 This section shall apply to all bids received on and after the date of
22 enactment of P.L.1999, c.440.
23 (cf: P.L.1999, c.440, s.96)

24

25 7. This act shall take effect immediately but shall be inoperative
26 until the 90th day after enactment.

27

28

29

STATEMENT

30

31 This bill makes uniform the period of notice for revisions or
32 addenda to advertisements for bids for certain contracts. The changes
33 affect contract bid procedures for the State, State and county colleges,
34 local and county governments, public schools and under the
35 Educational Facilities Construction and Financing Act. The bill will
36 make the period for notice of revisions or addenda uniform at seven
37 days (Saturday, Sunday and holidays excepted).

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1937

STATE OF NEW JERSEY

DATED: MAY 19, 2005

The Assembly State Government Committee reports favorably Senate, No. 1937 (1R).

This bill makes uniform the period of notice for revisions or addenda to advertisements for bids for certain contracts. The changes affect contract bid procedures for the State, State and county colleges, local and county governments, and public schools under the Educational Facilities Construction and Financing Act. The bill makes the period for notice of revisions or addenda uniform at seven days, with Saturday, Sunday and holidays excepted.

Senate, No. 1937 (1R) is the same as Assembly, No. 3709 (1R).

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1937

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 7, 2005

The Senate State Government Committee reports favorably and with committee amendments Senate, No. 1937.

This bill makes uniform the period of notice for revisions or addenda to advertisements for bids for certain contracts. The changes affect contract bid procedures for the State, State and county colleges, local and county governments, and public schools under the Educational Facilities Construction and Financing Act. The bill will make the period for notice of revisions or addenda uniform at seven days, with Saturday, Sunday and holidays excepted.

The committee amended to bill to: 1) delete incorrect references to boards of education and substitute references to State colleges, county colleges and the New Jersey Economic Development Authority, where appropriate; and 2) address specifically bids relating to the authority and require all advertisements to be published in a legal newspaper sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding but in no event less than 10 days prior to such date, a requirement included in other public bidding statutes.

ASSEMBLY, No. 3709

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JANUARY 11, 2005

Sponsored by:

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

SYNOPSIS

Provides uniform period for certain contracting entities to issue changes or addenda to bid advertisements.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain contract bidding requirements and
2 amending various parts of statutory law.

3

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

6

7 1. N.J.S.18A:18A-21 is amended to read as follows:

8 18A:18A-21. a. Except as provided in section 5 of P.L.1985,
9 c.490 (C.18A:18A-55), all advertisements for bids shall be published
10 in an official newspaper sufficiently in advance of the date fixed for
11 receiving the bids to promote competitive bidding, but in no event less
12 than 10 days prior to such date.

13 b. The advertisement shall designate the manner of submitting and
14 of receiving the bids and the time and place at which the bids will be
15 received. If the published specifications provide for receipt of bids by
16 mail, those bids which are mailed to the board of education shall be
17 sealed and shall be opened only for examination at such time and place
18 as all bids received are unsealed and announced. At such time and
19 place the purchasing agent of the board of education shall publicly
20 receive the bids and thereupon immediately proceed to unseal them
21 and publicly announce the contents, which announcement shall be
22 made in the presence of any parties bidding or their agents who are
23 then and there present. A proper record of the prices and terms shall
24 be made in the minutes of the board. No bids shall be received after
25 the time designated in the advertisement.

26 c. Notice of revisions or addenda to advertisements or bid
27 documents shall be provided as follows:

28 (1) For all contracts except those for construction work, notice
29 shall be published no later than **[five]** seven days, Saturdays, Sundays,
30 and holidays excepted, prior to the date for acceptance of bids, in an
31 official newspaper of the board of education and be provided to any
32 person who has submitted a bid or who has received a bid package, in
33 one of the following ways: (a) in writing by certified mail or (b) by
34 certified facsimile transmission, meaning that the sender's facsimile
35 machine produces a receipt showing date and time of transmission and
36 that the transmission was successful or (c) by a delivery service that
37 provides certification of delivery to the sender.

38 (2) For all contracts for construction work, notice shall be
39 provided no later than seven days, Saturdays, Sundays, or holidays
40 excepted, prior to the date for acceptance of bids, to any person who
41 has submitted a bid or who has received a bid package in any of the
42 following ways: i) in writing by certified mail or ii) by certified
43 facsimile transmission, meaning that the sender's facsimile machine

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 produces a receipt showing date and time of transmission and that the
2 transmission was successful or iii) by a delivery service that provides
3 certification of delivery to the sender.

4 d. Failure of the board of education to advertise for the receipt of
5 bids or to provide proper notification of revisions or addenda to
6 advertisements or bid documents related to bids as prescribed by this
7 section shall prevent the board of education from accepting the bids
8 and require the readvertisement for bids pursuant to subsection a. of
9 this section. Failure to obtain a receipt when good faith notice is sent
10 or delivered to the address or telephone facsimile number on file with
11 the board of education shall not be considered failure by the board of
12 education to provide notice.

13 (cf: P.L.1999, c.440, s.67)

14

15 2. Section 14 of P.L.1986, c.43 (C.18A:64-65) is amended to read
16 as follows:

17 14. a. All advertisements for bids shall be published in a legal
18 newspaper sufficiently in advance of the date fixed for receiving the
19 bids to promote competitive bidding but in no event less than 10 days
20 prior to that date for any construction projects or any other contract
21 or purchase. The advertisement shall designate the manner of
22 submitting and of receiving the bids and the time and place at which
23 the bids will be received. If the published specifications provide for
24 receipt of bids by mail, those bids which are mailed to the State
25 college shall be sealed and shall be opened only at such time and place
26 as all bids received are unsealed and announced. At that time and
27 place, the contracting agent of the State college shall publicly receive
28 the bids and thereupon immediately proceed to unseal them and
29 publicly announce the contents, which announcement shall be made in
30 the presence of any parties bidding or their agents who are then and
31 there present. A proper record of the prices and terms shall be made.
32 No bids shall be received after the time designated in the
33 advertisement.

34 b. Notice of revisions or addenda to advertisements or bid
35 documents relating to bids shall be published in a legal newspaper or
36 newspapers no later than seven days, Saturdays, Sundays and holidays
37 excepted, prior to the bid due date. The notice shall be provided to
38 any person who has submitted a bid or who has received a bid
39 package, in one of the following ways: (a) in writing by certified mail
40 or (b) by certified facsimile transmission, meaning that the sender's
41 facsimile machine produces a receipt showing date and time of
42 transmission and that the transmission was successful or (c) by a
43 delivery service that provides certification of delivery to the sender.
44 Failure to advertise or provide proper notification of revisions or
45 addenda to advertisements or bid documents related to bids as
46 prescribed by this section shall prevent the acceptance of bids and

1 require the readvertisement for bids.

2 Failure to obtain a receipt when good faith notice is sent or
3 delivered to the address or telephone facsimile number on file shall not
4 be considered failure to provide notice.

5 (cf: P.L.1994, c.48, s.115)

6

7 3. Section 14 of P.L.1982, c.189 (C.18A:64A-25.14) is amended
8 to read as follows:

9 14. a. All advertisements for bids shall be published in a legal
10 newspaper sufficiently in advance of the date fixed for receiving the
11 bids to promote competitive bidding but in no event less than 10 days
12 prior to such date. The advertisement shall designate the manner of
13 submitting and of receiving the bids and the time and place at which
14 the bids will be received. If the published specifications provide for
15 receipt of bids by mail, those bids which are mailed to the county
16 college shall be sealed and shall be opened only at such time and place
17 as all bids received are unsealed and announced. At such time and
18 place, the contracting agent of the county college shall publicly receive
19 the bids and thereupon immediately proceed to unseal them and
20 publicly announce the contents, which announcement shall be made in
21 the presence of any parties bidding or their agents who are then and
22 there present. A proper record of the prices and terms shall be made.
23 No bids shall be received after the time designated in the
24 advertisement.

25 b. Notice of revisions or addenda to advertisements or bid
26 documents relating to bids shall be published in a legal newspaper no
27 later than seven days, Saturdays, Sundays and holidays excepted, prior
28 to the bid due date. The notice shall be provided to any person who
29 has submitted a bid or who has received a bid package, in one of the
30 following ways: (a) in writing by certified mail or (b) by certified
31 facsimile transmission, meaning that the sender's facsimile machine
32 produces a receipt showing date and time of transmission and that the
33 transmission was successful or (c) by a delivery service that provides
34 certification of delivery to the sender. Failure to advertise or provide
35 proper notification of revisions or addenda to advertisements or bid
36 documents related to bids as prescribed by this section shall prevent
37 the acceptance of bids and require the readvertisement for bids.
38 Failure to obtain a receipt when good faith notice is sent or delivered
39 to the address or telephone facsimile number on file shall not be
40 considered failure to provide notice.

41 (cf: P.L.1982, c.189, s.14)

42

43 4. Section 52 of P.L.2000, c.72 (C.34:1B-5.7) is amended to read
44 as follows:

45 52. a. In undertaking any school facilities projects where the cost
46 of construction, reconstruction, rehabilitation or improvement will

1 exceed \$25,000, the authority may prepare, or cause to be prepared,
2 separate plans and specifications for: (1) the plumbing and gas fitting
3 and all work and materials kindred thereto, (2) the steam and hot
4 water heating and ventilating apparatus, steam power plants and all
5 work and materials kindred thereto, (3) the electrical work, (4)
6 structural steel and miscellaneous iron work and materials, and (5) all
7 general construction, which shall include all other work and materials
8 required to complete the building.

9 b. The authority shall advertise and receive (1) separate bids for
10 each of the branches of work specified in subsection a. of this section;
11 or (2) bids for all the work and materials required to complete the
12 school facilities project to be included in a single overall contract, in
13 which case there shall be set forth in the bid the name or names of all
14 subcontractors to whom the bidder will subcontract for the furnishing
15 of any of the work and materials specified in branches (1) through (4)
16 in subsection a. of this section; or (3) both.

17 c. Contracts shall be awarded as follows: (1) if bids are received in
18 accordance with paragraph (1) of subsection b. of this section, the
19 authority shall determine the responsible bidder for each branch whose
20 bid, conforming to the invitation for bids, will be most advantageous
21 to the authority, price and other factors considered; (2) if bids are
22 received in accordance with paragraph (2) of subsection b. of this
23 section, the authority shall determine the responsible bidder for the
24 single overall contract whose bid, conforming to the invitation for
25 bids, will be the most advantageous to the authority, price and other
26 factors considered; or (3) if bids are received in accordance with
27 paragraph (3) of subsection b. of this section, the authority shall award
28 separate contracts for each branch of work specified in subsection a.
29 of this section if the sum total of the amounts bid by the responsible
30 bidders for each branch, as determined pursuant to paragraph (1) of
31 this subsection, is less than the amount bid by the responsible bidder
32 for all of the work and materials, as determined pursuant to paragraph
33 (2) of this subsection; but if the sum total of the amounts bid by the
34 responsible bidder for each branch, as determined pursuant to
35 paragraph (1) of this subsection is not less than the amount bid by the
36 responsible bidder for all of the work and materials, as determined
37 pursuant to paragraph (2) of this subsection, the authority shall award
38 a single over-all contract to the responsible bidder for all of the work
39 and materials as determined pursuant to paragraph (2) of this
40 subsection.

41 d. For the purposes of this section, "other factors" means the
42 evaluation by the authority of the ability of the single contractor or the
43 abilities of the multiple contractors to complete the contract in
44 accordance with its requirements and includes requirements relating to
45 the experience and qualifications of the contractor or contractors and
46 their key personnel in projects of similar type and complexity; the

1 performance of the contractor or contractors on prior contracts with
2 the authority or the State; the experience and capability of the
3 contractor or contractors and their key personnel in respect to any
4 special technologies, techniques or expertise that the project may
5 require; the contractor's understanding of the means and methods
6 needed to complete the project on time and within budget; the
7 timetable to complete the project; the contractor's plan for quality
8 assurance and control; and other similar types of factors. The "other
9 factors" to be considered in evaluating bids and the weights assigned
10 to price and these "other factors" shall be determined by the authority
11 prior to the advertisement for bids for school facilities projects. In its
12 evaluation of bids, the consideration given to price by the authority
13 shall be at least equal to the consideration given to the combination of
14 all "other factors."

15 e. The authority shall require from all contractors to which it
16 awards contracts pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.), the
17 delivery of a payment performance bond issued in accordance with
18 N.J.S.2A:44-143 et seq.

19 f. The authority shall adopt regulations to implement this section
20 which shall include, but not be limited to, the procedural requirements
21 for: (1) the evaluation and weighting of price and "other factors" in the
22 awarding of contracts; and (2) the appealing of a prequalification
23 classification and rating, a bid rejection and a contract award
24 recommendation.

25 g. Each evaluation committee selected by the authority to review
26 and evaluate bids shall, at a minimum, contain a representative from
27 the district in which the school facilities project is located if such
28 district elects to participate.

29 h. All advertisements for bids shall be published in a legal
30 newspaper sufficiently in advance of the date fixed for receiving the
31 bids to promote competitive bidding but in no event less than 10 days
32 prior to such date. Notice of revisions or addenda to advertisements
33 or bid documents relating to bids shall be advertised to best give
34 notice to bidders no later than seven days, Saturdays, Sundays and
35 holidays excepted, prior to the bid due date. The notice shall be
36 provided to any person who has submitted a bid or who has received
37 a bid package, in one of the following ways: (a) in writing by certified
38 mail or (b) by certified facsimile transmission, meaning that the
39 sender's facsimile machine produces a receipt showing date and time
40 of transmission and that the transmission was successful or (c) by a
41 delivery service that provides certification of delivery to the sender.
42 Failure to advertise or provide proper notification of revisions or
43 addenda to advertisements or bid documents related to bids as
44 prescribed by this section shall prevent the acceptance of bids and
45 require the readvertisement for bids. Failure to obtain a receipt when
46 good faith notice is sent or delivered to the address or telephone

1 facsimile number on file shall not be considered failure to provide
2 notice.

3 (cf: P.L.2000, c.72, s.52)

4

5 5. Section 23 of P.L.1971, c.198 (C.40A:11-23) is amended to
6 read as follows:

7 23. a. All advertisements for bids shall be published in an official
8 newspaper of the contracting unit sufficiently in advance of the date
9 fixed for receiving the bids to promote competitive bidding, but in no
10 event less than 10 days prior to such date; except that all
11 advertisements for bids on contracts for the collection and disposal of
12 municipal solid waste shall be published in an official newspaper of the
13 contracting unit circulating in the county or municipality, and in at
14 least one newspaper of general circulation published in the State,
15 sufficiently in advance of the date fixed for receiving the bids to
16 promote competitive bidding, but not less than 60 days prior to that
17 date.

18 b. The advertisement shall designate the manner of submitting and
19 the method of receiving the bids and the time and place at which the
20 bids will be received. If the published specifications provide for
21 receipt of bids by mail, those bids which are mailed to the contracting
22 unit shall be sealed and shall only be opened for examination at such
23 time and place as all bids received are unsealed and announced. At
24 such time and place the contracting agent of the contracting unit shall
25 publicly receive the bids, and thereupon immediately proceed to unseal
26 them and publicly announce the contents, which announcement shall
27 be made in the presence of any parties bidding or their agents, who are
28 then and there present, and shall also make proper record of the prices
29 and terms, upon the minutes of the governing body, if the award is to
30 be made by the governing body of the contracting unit, or in a book
31 kept for that purpose, if the award is to be made by other than the
32 governing body, and in such latter case it shall be reported to the
33 governing body of the contracting unit for its action thereon, when
34 such action thereon is required. No bids shall be received after the time
35 designated in the advertisement.

36 c. Notice of revisions or addenda to advertisements or bid
37 documents shall be provided as follows:

38 1) For all contracts except those for construction work and
39 municipal solid waste collection and disposal service, notice shall be
40 published no later than [~~five~~] seven days, Saturdays, Sundays, and
41 holidays excepted, prior to the date for acceptance of bids, in an
42 official newspaper of the contracting unit and be provided to any
43 person who has submitted a bid or who has received a bid package, in
44 one of the following ways: i) in writing by certified mail or ii) by
45 certified facsimile transmission, meaning that the sender's facsimile
46 machine produces a receipt showing date and time of transmission and

1 that the transmission was successful or iii) by a delivery service that
2 provides certification of delivery to the sender.

3 2) For all contracts for construction work, notice shall be provided
4 no later than seven days, Saturdays, Sundays, or holidays excepted,
5 prior to the date for acceptance of bids, to any person who has
6 submitted a bid or who has received a bid package in any of the
7 following ways: i) in writing by certified mail or ii) by certified
8 facsimile transmission, meaning that the sender's facsimile machine
9 produces a receipt showing date and time of transmission and that the
10 transmission was successful or iii) by a delivery service that provides
11 certification of delivery to the sender.

12 3) For municipal solid waste collection and disposal contracts,
13 notice shall be published in an official newspaper of the contracting
14 unit and in at least one newspaper of general circulation published in
15 the State no later than [five] seven days, Saturdays, Sundays, and
16 holidays excepted, prior to the date for acceptance of bids.

17 d. Failure of the contracting unit to advertise for the receipt of bids
18 or to provide proper notification of revisions or addenda to
19 advertisements or bid documents related to bids as prescribed by this
20 section shall prevent the contracting unit from accepting the bids and
21 require the readvertisement for bids pursuant to subsection a. of this
22 section. Failure to obtain a receipt when good faith notice is sent or
23 delivered to the address or telephone facsimile number on file with the
24 contracting unit shall not be considered failure by the contracting unit
25 to provide notice.

26 (cf: P.L.1999, c.440, s.31)

27

28 6. Section 7 of P.L.1954, c.48 (C.52:34-12) is amended to read as
29 follows:

30 7. Whenever advertising is required: (a) specifications and
31 invitations for bids shall permit such full and free competition as is
32 consistent with the procurement of supplies and services necessary to
33 meet the requirements of the using agency and shall, wherever
34 practicable, include such factors as life-cycle costs, sliding percentage
35 preference scales, or other similar analysis as shall be deemed effective
36 by the Director of the Division of Purchase and Property, hereinafter
37 referred to as the director, (b) the advertisement for bids shall be in
38 such newspaper or newspapers selected by the State Treasurer as will
39 best give notice thereof to bidders and shall be sufficiently in advance
40 of the purchase or contract to promote competitive bidding; (c) the
41 advertisement shall designate the time and place when and where
42 sealed proposals shall be received and publicly opened and read, the
43 amount of the cash or certified check, if any, which must accompany
44 each bid, and such other terms as the State Treasurer may deem
45 proper; (d) notice of revisions or addenda to advertisements or bid
46 documents relating to bids shall be published in a newspaper or

1 newspapers as selected by the State Treasurer to best give notice to
2 bidders and sent to the prospective bidder no later than ~~five~~ seven
3 days, Saturdays, Sundays and holidays excepted, prior to the bid due
4 date; (e) failure to advertise for the receipt of bids or to provide
5 proper notification of revisions or addenda to advertisements or bid
6 documents related to bids as prescribed by subsection (d) of this
7 section shall prevent the acceptance of bids and require the
8 readvertisement for bids; (f) for any procurement, the State Treasurer
9 or the director may negotiate with bidders, after bid opening, the final
10 terms and conditions of any procurement, including price; such ability
11 to so negotiate must be expressly set forth in the applicable invitation
12 to bid; (g) award shall be made with reasonable promptness, after
13 negotiation with bidders where authorized, by written notice to that
14 responsible bidder whose bid, conforming to the invitation for bids,
15 will be most advantageous to the State, price and other factors
16 considered. Any or all bids may be rejected when the State Treasurer
17 or the Director of the Division of Purchase and Property determines
18 that it is in the public interest so to do. The State Treasurer or
19 designee may adopt, pursuant to the "Administrative Procedure Act,"
20 P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as
21 may be necessary to implement the provisions of this section.

22 This section shall apply to all bids received on and after the date of
23 enactment of P.L.1999, c.440.

24 (cf: P.L.1999, c.440, s.96)

25

26 7. This act shall take effect immediately but shall be inoperative
27 until the 90th day after enactment.

28

29

30

STATEMENT

31

32 This bill makes uniform the period of notice for revisions or
33 addenda to advertisements for bids for certain contracts. The changes
34 affect contract bid procedures for the State, State and county colleges,
35 local and county governments, public schools and under the
36 Educational Facilities Construction and Financing Act. The bill will
37 make the period for notice of revisions or addenda uniform at seven
38 days (Saturday, Sunday and holidays excepted).

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3709

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 19, 2005

The Assembly State Government Committee reports favorably and with committee amendments Assembly, No. 3709.

As amended, this bill makes uniform the period of notice for revisions or addenda to advertisements for bids for certain contracts. The changes affect contract bid procedures for the State, State and county colleges, local and county governments, and public schools under the Educational Facilities Construction and Financing Act. The bill will make the period for notice of revisions or addenda uniform at seven days, with Saturday, Sunday and holidays excepted.

Assembly, No. 3709 (1R) is the same as Senate, No.1937 (1R).

COMMITTEE AMENDMENTS

The committee amended the bill to insert direct references to State colleges, county colleges and the New Jersey Economic Development Authority, where appropriate.