

[FIRST REPRINT]
ASSEMBLY, No. 2011

STATE OF NEW JERSEY

INTRODUCED AUGUST 29, 1994

By Assemblymen DeCROCE, GREGG, Assemblywoman Murphy
and Assemblyman Warsh

1 AN ACT concerning public school contracts and amending
2 N.J.S.18A:18A-5.

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

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

7 18A:18A-5. Exceptions to requirement for advertising. Any
8 purchase, contract or agreement of the character described in
9 N.J.S.8A:18A-4 may be made, negotiated or awarded by the
10 board of education by resolution at a public meeting without
11 public advertising for bids and bidding therefor if

12 a. The subject matter thereof consists of:

13 (1) Professional services;

14 (2) Extraordinary unspecifiable services which cannot
15 reasonably be described by written specifications, which
16 exception as to extraordinary unspecifiable services shall be
17 construed narrowly in favor of open competitive bidding where
18 possible and the State Board of Education is authorized to
19 establish rules and regulations limiting its use in accordance with
20 the intention herein expressed; and the board of education shall in
21 each instance state supporting reasons for its action in the
22 resolution awarding the contract for extraordinary unspecifiable
23 services;

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

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

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

30 (6) Food services and supplies, including food supplies for home
31 economics classes, when purchased pursuant to rules and
32 regulations of the State board and in accordance with the
33 provisions of N.J.S.18A:18A-6;

34 (7) The supplying of any product or the rendering of any
35 service by a public utility, which is subject to the jurisdiction of
36 the Board of Public Utilities, in accordance with the tariffs and
37 schedules of charges made, charged and exacted, filed with said
38 board;

39 (8) The printing of bonds and documents necessary to the
40 issuance and sale thereof by a board of education;

41 (9) Equipment repair service if in the nature of an
42 extraordinary unspecifiable service and necessary parts furnished
43 in connection with such services;

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 Assembly floor amendments adopted February 6, 1995.

1 (10) Insurance, including the purchase of insurance coverage
2 and consultant services;

3 (11) Publishing of legal notices in newspapers as required by
4 law;

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

7 (13) Election expenses, including advertising expenses
8 incidental thereto;

9 (14) Electronic data processing service obtained from another
10 board of education;

11 (15) Driver education courses provided by licensed driver
12 education schools;

13 (16) Performance of work or services or the furnishing of
14 materials, supplies or equipment for the purpose of conserving
15 energy in buildings owned by any local board of education, the
16 entire price of which shall be established as a percentage of the
17 resultant savings in energy costs;

18 (17) The doing of any work by ¹[handicapped]¹ persons ¹with
19 disabilities¹ employed by a sheltered workshop.

20 b. It is to be made or entered into with the United States of
21 America, the State of New Jersey, county or municipality or any
22 board, body, officer, agency or authority or any other state or
23 subdivision thereof.

24 c. The board of education has advertised for bids pursuant to
25 N.J.S.18A:18A-4 on two occasions and has received no bids in
26 response to its advertisement and, after reasonable inquiry, it is
27 determined that no board, body, officer, agency or authority of
28 the United States, or of the State of New Jersey or of any county
29 or municipality in which the board of education is located is
30 willing and able to perform any work or furnish or hire any
31 materials or supplies in conformity with the specifications of the
32 board of education. Any such contract or agreement entered into
33 pursuant to this subsection c. may be made, negotiated or
34 awarded only upon adoption of a resolution by the affirmative
35 vote of two-thirds of the full membership of the board of
36 education at a meeting thereof authorizing such a contract or
37 agreement. Any amendment or modification of the terms,
38 conditions, restrictions and specifications which were the subject
39 of the competitive bidding pursuant to N.J.S.18A:18A-4 shall be
40 stated in the resolution awarding the contract.

41 d. The board of education has advertised for bids pursuant to
42 N.J.S.18A:18A-4 on two occasions and has rejected such bids on
43 each occasion because the board of education has determined
44 that they are not reasonable as to price on the basis of cost
45 estimates prepared for the board of education prior to the
46 advertising therefor or have not been independently arrived at in
47 open competition, but no such contract or agreement may be
48 entered into after such rejection of bids, unless:

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

52 (2) The negotiated price is lower than the lowest rejected bid
53 price of a responsible bidder who bid thereon and is the lowest
54 negotiated price offered by any responsible supplier and is a
55 reasonable price for such work, materials, supplies or services;

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

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

8 Whenever a board of education shall determine that a bid was
9 not arrived at independently in open competition pursuant to this
10 subsection d. of N.J.S.18A:18A-5, it shall thereupon notify the
11 county prosecutor of the county in which the board of education
12 is located and the Attorney General of the facts upon which its
13 determination is based, and when appropriate, it may institute
14 appropriate proceedings in any State or federal court of
15 competent jurisdiction for a violation of any State or federal
16 antitrust law or laws relating to the unlawful restraint of trade.

17 e. The board of education has solicited and received at least
18 three quotations on materials, supplies or equipment for which a
19 State contract has been issued pursuant to N.J.S.18A:18A-10, and
20 the lowest responsible quotation is at least 10% less than the
21 price the board would be charged for the identical materials,
22 supplies or equipment, in the same quantities, under the State
23 contract. Any such contract or agreement entered into pursuant
24 to subsection d. or subsection e. may be made, negotiated or
25 awarded only upon adoption of a resolution by the affirmative
26 vote of two-thirds of the full membership of the board of
27 education at a meeting thereof authorizing such a contract or
28 agreement.

29 (cf: P.L.1985, c. 527, s.1)

30 2. This act shall take effect immediately.

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36 Allows school districts to contract for work by handicapped
persons in a sheltered workshop without going out to bid.

1 reasonable price for such work, materials, supplies or services;
2 (3) Any amendment or modification of the terms, conditions,
3 restrictions and specifications which were the subject of
4 competitive bidding pursuant to N.J.S. 18A:18A-4 shall be stated
5 in the resolution awarding the contract; and
6 (4) The negotiated price is lower than the price of the same or
7 equivalent materials or supplies available from the State, county
8 or municipality in which the board of education is located.
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10 not arrived at independently in open competition pursuant to this
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21 and the lowest responsible quotation is at least 10% less than the
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23 supplies or equipment, in the same quantities, under the State
24 contract. Any such contract or agreement entered into pursuant
25 to subsection d. or subsection e. may be made, negotiated or
26 awarded only upon adoption of a resolution by the affirmative
27 vote of two-thirds of the full membership of the board of
28 education at a meeting thereof authorizing such a contract or
29 agreement.

30 (cf: P.L.1985, c. 527, s.1)

31 2. This act shall take effect immediately.

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STATEMENT

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36 This bill amends the Public School Contracts Law to permit
37 public schools to contract with sheltered workshops without going
38 out to bid. A similar provision is included in the Local Public
39 Contracts Law.

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44 Allows school districts to contract for work by handicapped
45 persons in a sheltered workshop without going out to bid.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2011

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 1994

The Assembly Education Committee favorably reports Assembly Bill No. 2011.

This bill amends the "Public School Contracts Law," N.J.S.A.18A:18A-1 et seq., to authorize public school districts to contract for the performance of work by handicapped persons who are employed by sheltered workshops without going out to bid. A provision similar to this bill is included in the "Local Public Contracts Law," N.J.S.A.40A:11-1 et seq.