

18A:64A-25.1 to 18A:64A-25.32

LEGISLATIVE HISTORY CHECKLIST

NJSA 18A:64A-25.1 to 18A:64A-25.32 (County College Contracts Law--governs purchase of material and contracts for work)

LAWS 1982 CHAPTER 189

Bill No. A1156

Sponsor(s) Doria and others

Date Introduced March 15, 1982

Committee: Assembly Higher Education and Regulated Professions
Senate Education

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly June 14, 1982
Senate Sept. 16, 1982

Date of approval Dec. 1, 1982

Following statements are attached if available:

Sponsor statement	Yes	No
Committee Statement: Assembly	Yes	No
Senate	Yes	No
Fiscal Note	Yes	No
Veto Message	Yes	No
Message on signing	Yes	No

Following were printed:

Reports	Yes	No
Hearings	Yes	No

According to the sponsors' statement, "County colleges are not subject to the Local Public Contracts Law..." At the time this bill was introduced, county college purchases were subject to regulations of the Dept. of Higher Education (N.J.A.C. 9:4-3.17 through 3.23)

(over)

6/22/81

SEP 22

Effective April 5, 1982, these regulations were repealed and the county colleges were required to comply with the Local Public Contracts Law (see N.J.A.C. 9:4-3.7). This change is reflected in the Assembly and Senate Committee statements (dated May 20 and June 28 respectively) but not in the fiscal note (dated June 20).

189
12-1-82
1982

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1156

STATE OF NEW JERSEY

INTRODUCED MARCH 15, 1982

By Assemblymen DORIA, CHARLES, JANISZEWSKI, Assemblywoman GARVIN, Assemblymen BOCCHINI, ROCCO, WOLF, T. GALLO and COWAN

Referred to Committee on Higher Education and Regulated Professions

AN ACT concerning education and enacting an additional article to chapter 64A of Title 18A of the New Jersey Statutes to be known as the "County College Contracts Law".

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

ARTICLE COUNTY COLLEGE CONTRACTS LAW

A. GENERAL PROVISIONS

1 1. Short title; citation. This article shall be known and may be
2 cited as the "County College Contracts Law".

1 2. Definitions. As used in this article, unless the context other-
2 wise indicates:

3 a. "Board of trustees" means the board of trustees of a county
4 college and the community college commission of a community
5 college agency.

6 b. "County college" ***[includes a "community college agency"**
7 **and]*** means ***[the]*** *any* body corporate known as

8 (1) the board of trustees of a county college established pur-
9 suant to chapter 64A of Title 18A of the New Jersey Statutes, or

10 (2) the community college commission of a community college
11 agency established pursuant P. L. 1974, c. 89 (C. 18A:64A-30
12 et seq.), ***[as the case may be]*** *or*.*

12A *(3) *the coordinating agency for higher education of a county*
12B *established pursuant to P. L. 1968, c. 180 (C. 18A:64B-5 et seq.).**

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted May 24, 1982.

**Senate committee amendment adopted June 28, 1982.

13 c. "Contracting agent" means the business officer of the county
 14 college having the power to prepare advertisements to advertise
 15 for and receive bids and to make awards for the county college in
 16 connection with the purchases, contracts or agreements permitted
 17 by this article *[but, if there be no business officer,]* *or* such
 18 officer, committee or employee to whom such power has been dele-
 19 gated by the county college;

20 d. "Contracts" means contracts or agreements for the perform-
 21 ance of work or the furnishing or hiring of services, materials or
 22 supplies as distinguished from contracts of employment;

23 e. "Legal newspaper" means a newspaper circulating in the
 24 county or counties in which the county college has been established,
 25 printed and published in the English language at least once a week
 26 for at least 1 year continuously;

27 f. "Materials" includes goods and property subject to chapter 2
 28 of Title 12A of the New Jersey Statutes, apparatus or any other
 29 tangible thing except real property or any interest therein;

30 g. "Extraordinary unspecifiable services" means services or
 31 products which cannot be reasonably described by written speci-
 32 fications;

33 h. "Professional services" means services rendered or per-
 34 formed by a person authorized by law to practice a recognized
 35 profession and whose practice is regulated by law and the perform-
 36 ance of which services requires knowledge of an advanced type
 37 in a field of learning acquired by a prolonged formal course of
 38 specialized instruction and study as distinguished from general
 39 academic instruction or apprenticeship and training. Professional
 40 services also means services rendered in the performance of work
 41 that is original and creative in character in a recognized field of
 42 artistic endeavor.

43 i. "Project" means any work, undertaking, construction or
 44 alteration;

45 j. "Purchases" are transactions, for a valuable consideration,
 46 creating or acquiring an interest in goods, services and property
 47 except real property or any interest therein;

48 k. "Work" includes services and any other activity of a tangible
 49 or intangible nature performed or assumed pursuant to a contract
 50 or agreement with a county college.

B. PURCHASES, CONTRACTS, AGREEMENTS, ADVERTISING:

EXCEPTIONS

1 3. Purchases, contracts and agreements not requiring adver-
 2 tising. Any purchase, contract or agreement for the performance
 3 of any work or the furnishing or hiring of materials or supplies,

4 the cost or price of which, together with any sums expended for the
 5 performance of any work or services in connection with the same
 6 project or the furnishing of similar materials or supplies during
 7 the same fiscal year, paid with or out of college funds, does not
 8 exceed the total sum of *~~[\$5,000.00]~~* *\$4,500.00* in any fiscal year
 9 *~~[Or, in the case of purchases that are not annually recurring, in a~~
 10 ~~period of 1 year]~~* may be made, negotiated and awarded by a
 11 contracting agent, when so authorized by resolution of the board
 12 of trustees of the county college, without public advertising for
 13 bids and bidding therefor.

14 *~~[The cost of any contract which may be awarded without public~~
 15 ~~bidding may be increased above \$5,000.00 by rule and regulation~~
 16 ~~of the Board of Higher Education.]~~*

17 **Any purchase, contract or agreement made pursuant to this*
 18 *section may be awarded for a period of 12 consecutive months, not-*
 19 *withstanding that such 12-month period does not coincide with the*
 20 *fiscal year. The Department of Higher Education shall adopt and*
 21 *promulgate rules and regulations concerning the methods of*
 22 *accounting for all contracts that do not coincide with the fiscal year.**

1 4. Contracts and agreements requiring advertising. Every con-
 2 tract or agreement for the performance of any work or the furnish-
 3 ing or hiring of any materials or supplies, the cost or the contract
 4 price of which is to be paid with or out of college funds, not
 5 included within the terms of section 3 hereof, shall be made and
 6 awarded only by the county college after public advertising for
 7 bids and bidding therefor except as provided otherwise in this
 8 article or specifically by any other law. **No work, materials or*
 9 *supplies shall be undertaken, acquired or furnished for a sum*
 10 *exceeding in the aggregate \$4,500.00 except by written contract or*
 11 *agreement.**

1 5. Exceptions to requirement for advertising. Any purchase,
 2 contract or agreement of the character described in section 4 may
 3 be made, negotiated or awarded by the county college by resolution
 4 at a public meeting of its board of trustees without public adver-
 5 tising for bids or bidding therefor if:

6 a. The subject matter thereof consists of:

- 7 (1) Professional services; or,
 8 (2) Extraordinary unspecifiable services and products which
 9 cannot reasonably be described by written specification, subject
 10 however, to the rules and regulations of the Board of Higher
 11 Education **consistent with open public bidding whenever possible**;
 11A or
 12 (3) Materials or supplies which are not available from more

13 than one potential bidder, including without limitation materials
14 or supplies which are patented or copyrighted; or

15 (4) The doing of any work by employees of the ***[community]***
16 *county* college; or

17 (5) The printing of all legal notices and legal briefs, records
18 and appendices to be used in any legal proceeding to which the
19 county college may be a party; or

20 (6) Textbooks, copyrighted materials, student produced publi-
21 cations and services incidental thereto, library materials including
22 without limitation books, periodicals, newspapers, documents,
23 pamphlets, photographs, reproductions, microfilms, pictorial or
24 graphic works, musical scores, maps, charts, globes, sound record-
25 ings, slides, films, filmstrips, video and magnetic tapes, other
26 printed or published matter and audiovisual and other materials
27 of a similar nature, necessary binding or rebinding of library
28 materials and specialized library services; or

29 (7) Food supplies and services including food supplies and man-
30 agement contracts for student centers, dining rooms and cafeterias
31 *pursuant to rules and regulations of the Board of Higher Educa-
31A tion* ; or

32 (8) The supplying of any product or the rendering of any ser-
33 vice by the public utility which is subject to the jurisdiction of the
34 Board of Public Utilities in accordance with tariffs and schedules
35 of charges made, charged and exacted, filed with said board; or

36 (9) Equipment repair service if in the nature of an extraordi-
37 nary unspecifiable service and necessary parts furnished in con-
38 nection with such services; or

39 (10) Specialized machinery or equipment of a technical nature
40 which will not reasonably permit the drawing of specifications, and
41 the procurement thereof without advertising is in the public in-
42 terest; or

43 (11) Insurance, including the purchase of insurance coverage
44 and consulting services *which exceptions shall be in accordance
44A with the requirements for extraordinary, unspecifiable service* ; or

45 (12) Publishing of legal notices in newspapers as required by
46 law; or

47 (13) The acquisition of artifacts or other items of unique, in-
48 trinsic, artistic or historic character; or

49 (14) The collection of amounts due on student loans, including
50 without limitation loans guaranteed by or made with funds of the
51 United States of America; or

52 (15) Professional consulting services; or

53 (16) Entertainment, including without limitation theatrical

54 presentations, band and other concerts, movies and other audio-
55 visual productions; or

56 (17) Contracts employing funds created by student activities
57 fees charged to students **or otherwise raised by students not under*
57A *the direct control of the college and expended by student organiza-*
57B *tions**; or,

58 (18) Printing, including without limitation catalogs, yearbooks
59 and course announcements; or

60 (19) Data processing **software** programs, systems and service
61 and the rental or lease of data processing equipment; or

62 (20) Personnel recruitment and advertising including, without
63 limitation, advertising seeking student enrollment; or

64 (21) Educational supplies, books, articles of clothing and other
65 miscellaneous articles purchased by a county college bookstore for
66 resale to college students and employees; or

67 (22) Purchase or rental of graduation caps and gowns and award
68 certificates or plaques.

69 b. It is to be made or entered into with the United States of
70 America, the State of New Jersey, a county or municipality or
71 any board, body, or officer, agency or authority or any other state
72 or subdivision thereof.

73 ***[c.** The county college has advertised for bids pursuant to sec-
74 tion 4 on two occasions and has received no bids in response to
75 its advertisement and, after reasonable inquiry, it is determined
76 that no board, body, officer, agency or authority of the United
77 States or of the State of New Jersey or of any county or munici-
78 pality in the county or counties in which the county college is lo-
79 cated is willing and able to perform any work or furnish or hire
80 any materials or supplies in conformity with the specifications of
81 the county college. Any such contract or agreement entered into
82 pursuant to this subsection c. may be made, negotiated or awarded
83 upon the adoption of a resolution by the affirmative vote of two-
84 thirds of the full membership of the board of trustees of the county
85 college at a meeting thereof authorizing such contract or agree-
86 ment. Any amendment or modification of the terms, conditions,
87 restrictions and specifications which were the subject of competi-
88 tive bidding pursuant to section 4 shall be stated in the resolution
89 awarding the contract.

90 d. The county college has advertised for bids pursuant to sec-
91 tion 4 on two occasions and the board of trustees has rejected such
92 bids on each occasion because it has determined that they are not
93 reasonable as to price on the basis of cost estimates prepared for
94 the county college prior to the advertising therefor or have not

95 been independently arrived at in open competition, but no such
96 contracts or agreement may be entered into after such rejection
97 of bids unless:

98 (1) Notification of the intention to negotiate and the reasonable
99 opportunity to negotiate shall be given by the county college to
100 each responsible bidder;

101 (2) The negotiated price is lower than the lowest rejected bid
102 price of a responsible bidder who bid thereon and is the lowest
103 negotiated price offered by any responsible supplier and is a rea-
104 sonable price for such work, materials, supplies or services;

105 (3) Any amendment or modification of terms, conditions, re-
106 strictions or specifications which were the subject of competitive
107 bidding pursuant to section 4 shall be stated in the resolution award-
108 ing the contract; and

109 (4) The negotiated price is lower than the price of the same or
110 equivalent work, materials or supplies available from the State,
111 county or counties in which the county college is located.

112 Any such contract or agreement entered into pursuant to this
113 subsection d. may be made, negotiated or awarded only upon adop-
114 tion of a resolution by the affirmative vote of two-thirds of the full
115 membership of the board of trustees of the county college at a
115A meeting thereof authorizing such contract or agreement.]*

116 *c. *The county college has advertised for bids pursuant to sec-*
117 *tion 4 on two occasions and (i) has received no bids on both*
118 *occasions in response to its advertisement, or (ii) has rejected such*
119 *bids on two occasions because the county college has determined*
120 *that they are not reasonable as to price, on the basis of cost esti-*
121 *mates prepared for or by the county college prior to the advertising*
122 *therefor, or have not been independently arrived at in open competi-*
123 *tion, or (iii) on one occasion no bids were received pursuant to (i)*
124 *and on one occasion all bids were rejected pursuant to (ii), in what-*
125 *ever sequence; any such contract or agreement may then be nego-*
126 *tiated by a two-thirds affirmative vote of the authorized member-*
127 *ship of the board of trustees authorizing such contract or agree-*
128 *ment; provided, however, that:*

129 (1) *A reasonable effort is just made by the contracting agent to*
130 *determine that the same or equivalent materials or supplies at a*
131 *cost which is lower than the negotiated price are not available from*
132 *any agency or authority of the United States, the State of New*
133 *Jersey or of the county in which the county college is located, or any*
134 *municipality in close proximity to the county college;*

135 (2) *The terms, conditions, restrictions and specifications set forth*
136 *in the negotiated contract or agreement are not substantially differ-*

137 ent from those which were the subject of competitive bidding pur-
138 suant to section 4; and

139 (3) Any minor amendment or modification of any of the terms,
140 conditions, restrictions and specifications, which were the subject
141 of competitive bidding pursuant to section 4 of this act, shall be
142 stated in the resolution awarding such contract or agreement; pro-
143 vided, further, however, that if on the second occasion the bids
144 received are rejected as unreasonable as to price, the county college
145 shall notify each responsible bidder, submitting bids on the second
146 occasion of its intention to negotiate and afford each such bidder a
147 reasonable opportunity to negotiate, but the county college shall
148 not award such contract or agreement unless the negotiated price is
149 lower than the lowest rejected bid price submitted on the second
150 occasion by a responsible bidder, is the lowest negotiated price
151 offered by any responsible vendor, and is a reasonable price for
152 such work, materials, supplies or services.*

153 ***[e.]*** Whenever a county college shall determine that a bid was
154 not arrived at independently in open competition pursuant to sub-
155 section ***[d.]*** *c. (ii)* of section 5, it shall thereupon notify the
156 county prosecutor of the county in which the county college is
157 located and the Attorney General of the facts upon which its
158 determination is based and, when appropriate, it may institute
159 appropriate proceedings in any State or Federal court of competent
160 jurisdiction for a violation of any State or Federal antitrust law or
161 laws relating to the unlawful restraint of trade.

1 6. Emergency purchases and contracts. Any purchase, contract,
2 or agreement may be made, negotiated or awarded by a county
3 college without public advertising for bids and bidding therefor,
4 notwithstanding that the cost or contract price will exceed
5 ***[\$5,000.00]*** *\$4,500.00*, when an emergency affecting the health
6 ***[or]*** *,* safety *or welfare* of occupants of college property
7 requires the immediate delivery of the materials or supplies or the
8 performance of the work, provided that such purchases, contracts or
9 agreements are awarded or made in the following manner:

10 a. A written requisition for the performance of such work or
11 the furnishing of materials or supplies certified by the employee
12 in charge of the building, facility or equipment where the emer-
13 gency occurred, is filed with the contracting agent or his deputy
14 in charge describing the nature of the emergency, the time of its
15 occurrence, and the need for invoking this section. The contracting
16 agent, or his deputy in charge, being satisfied that the emergency
17 exists, is hereby authorized to award a contract for said work,
18 materials or supplies.

19 b. Upon the furnishing of such work, materials or supplies in
 20 accordance with the terms of the contract or agreement, the con-
 21 tractor furnishing such work, materials or supplies shall be entitled
 22 to be paid therefor and the county college shall be obligated for
 23 said payment.

24 c. The ***[Board of Higher Education]*** *board of trustees* may
 25 prescribe rules and procedures to implement the requirements of
 26 this section.

1 7. Contracts not to be divided. No purchase, contract or agree-
 2 ment which is single in character or which necessarily or by reason
 3 of the quantities required to effectuate the purpose of the purchase,
 4 contract or agreement includes the furnishing of additional services
 5 or equipment or buying materials or supplies or the doing of
 6 additional work, shall be subdivided so as to bring it or any of
 7 the parts thereof under the maximum price or cost limitation set
 8 forth in section 3 or in a regulation of the Board of Higher Edu-
 9 cation thus dispensing with the requirement of public advertising
 10 and bidding therefor. Where the doing of any work is included
 11 in or incident to the performance or completion of any project
 12 which is single in character or inclusive of the furnishing of addi-
 13 tional work, materials or supplies or which requires the furnishing
 14 of more than one article of materials or supplies, all of the work,
 15 materials or supplies requisite for the completion of such project
 16 shall be included in one purchase, contract or agreement.

1 8. Periodic solicitation of bids. Except as provided in section 28,
 2 every county college shall, on an annual basis or at such lesser
 3 intervals as may be fixed by it, solicit by public advertisement the
 4 submission of bids for the furnishing of all work, materials and
 5 supplies which are and which under section 4 can be purchased or
 6 agreed or contracted to be furnished only after public advertising
 7 for bids and bidding therefor.

1 9. Purchase through State agency. Any county college, without
 2 advertising for bids, or after having rejected all bids obtained
 3 pursuant to advertising therefor, may purchase any materials,
 4 supplies or equipment pursuant to a contract or contracts for such
 5 materials, supplies or equipment entered into on behalf of the
 6 State by the Division of Purchase and Property.

C. JOINT PURCHASING AGREEMENTS

1 10. Joint purchases by county colleges, municipalities or counties;
 2 authority. The board of trustees of two or more county colleges
 3 may provide jointly by agreement for the purchasing of work,
 4 materials or supplies for their respective colleges, or one or more

5 county colleges may provide for such purchase by joint agreement
 6 with the governing bodies of any municipality or of the county
 7 within whose boundaries any such college or colleges is or are
 8 wholly or partly located **and may enter agreements with other*
 9 *units of government pursuant to the "Local Public Contracts*
 10 *Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.)*.*

1 11. Contents of agreement.

2 a. Such agreement shall set forth the categories of work, ma-
 3 terials or supplies to be purchased, the manner of advertising for
 4 bids and of awarding of contracts, the method of payments by
 5 each participating county college, municipality or county and other
 6 matters deemed necessary to carry out the purposes of the agree-
 7 ment.

8 b. Funds for each participant's share of expenditures for pur-
 9 chases under any such agreement shall be appropriated and paid
 10 in the manner set forth in the agreement and in the same manner
 11 as appropriations are made for other expenses of the participant.

1 12. Purchase agreements subject to law and rules and regulations.

2 Such purchases and all agreements pertaining thereto shall be
 3 subject to all provisions of law and the applicable rules and regula-
 4 tions of the Board of Higher Education.

D. SPECIFICATIONS AND PLANS

1 13. Specifications generally. All specifications for any purchase,
 2 contract or agreement governed by this article shall be drafted in
 3 a manner to encourage free, open and competitive bidding. In
 4 particular, no specifications under this article may:

5 a. Require a standard, restriction, condition or limitation not
 6 directly related to the purpose, function or activity for which the
 7 purchase, contract or agreement is made; or

8 b. Require that any bidder be a resident of, or that his place of
 9 business be located in, the county in which the purchase will be
 10 made or the contract or agreement performed unless the physical
 11 proximity of the bidder is requisite to the efficient and economical
 12 purchase or performance of the contract or agreement; or

13 c. Discriminate on the basis of race, religion, sex or national
 14 origin; or

15 d. Require with regard to any purchase, contract or agreement
 16 the furnishing of any "brand name", although specifications may
 17 in all cases require "brand name or equivalent" nor shall mater-
 18 ials or supplies which are patented or copyrighted be specified
 19 unless the resolution authorizing the purchase, contract or agree-
 20 ment sets forth the manner in which the special need for such
 21 patented or copyrighted materials or supplies is directly related

22 to the performance or purpose for which the purchase, contract or
23 agreement is made; or

24 e. Fail to include any option for renewal, extension or release
25 which the county college may intend to exercise or require; or

26 f. Fail to include any terms and conditions necessary for the
27 performance of any extra work; or

28 g. Fail to disclose any matter necessary to the substantial per-
29 formance of the contract or agreement.

30 ***[**The specifications for every contract for construction, the
31 entire cost of which will exceed \$10,000.00, shall provide that the
32 county college, through its authorized agent, shall upon completion
33 of the contract report to the Board of Higher Education as to the
34 contractor's performance and shall also furnish such report from
35 time to time during the performance of the contract if the con-
36 tractor is then in default.]*

37 Any specification adopted by the county college which knowingly
38 excludes prospective bidders by reason of the impossibility of
39 performance, bidding or qualification by any but one bidder, except
40 as provided herein, shall be null and void and of no effect, and such
41 purchase, contract or agreement shall be readvertised, and the
42 original purchase, contract or agreement shall be set aside by the
43 board of trustees of the county college.

E. BIDDING

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

1 15. Bids to conform to specifications; rejection of bids. No bid
2 shall be accepted which does not conform to the specifications
3 furnished therefor. Nothing contained in this article shall be

4 construed as depriving any county college of the right to reject
5 all bids.

1 16. Guaranty to accompany bids; amount. There may be re-
2 quired from any person bidding on any purchase, contract or
3 agreement, advertised in accordance with law, that the bid be
4 accompanied by a guaranty payable to the county college that, if
5 the purchase, contract or agreement is awarded to him, he will
6 enter into a contract therefor and will furnish any performance
7 bond or other security which may be required pursuant to section
8 17. The guaranty shall be in the amount of 10% of the bid but not
9 in excess of \$20,000.00, except as otherwise provided herein, and
10 may be given, at the option of the bidder, by certified check,
11 cashier's check or bid bond. In the event that any law or regulation
12 of the United States imposes any condition upon the awarding of a
13 monetary grant to any county college, which condition requires a
14 guaranty in an amount other than 10% of the bid or in excess of
15 \$20,000.00, the provisions of this section shall not apply and the
16 requirements of the law or regulation of the United States shall
17 govern.

18 The college may require a bid guaranty alone without also
19 requiring a performance bond or other security in the contract.

1 17. Performance guaranty and certificate. In addition to or
2 independent of the guaranty which may be required pursuant to
3 section 16, the county college may require that the successful bidder
4 provide a surety company bond **or other security acceptable to the*
4A *county college**:

5 a. For the faithful performance of all provisions of the advertise-
6 ment for bids, the specifications and any other documents issued
7 to bidders **or a repair or maintenance bond**; and

8 b. In such form as may be required in the specifications or other
9 documents issued to bidders.

10 In every case in which such performance bond is required, the
11 requirement shall be set forth in the specifications or other docu-
12 ments issued to all bidders, and every bidder shall be required to
13 submit with the bid a certificate from a surety company stating
14 that it will provide that bidder with such a performance bond in
15 the specified amount and form.

F. AWARDING CONTRACTS

1 18. Time for making awards; deposits returned. The county
2 college shall award the contract or reject all bids within such time
3 as may be specified in the specifications or other documents issued
4 to all bidders, but in no case more than 60 days, except the bids of
5 any bidders who consent thereto**, *either before or after said 60*

6 *day period,*** may, at the request of the county college, be held
 7 for consideration for such longer period as may be agreed. All
 8 bid security except the security of the three apparent lowest
 9 responsible bidders shall, if requested, be returned ***[after 10]***
 9A **within 30** days from the opening of the bids, Sundays and
 10 holidays excepted, and the bids of such bidders shall be considered
 11 as withdrawn. Within 3 days, Sundays and holidays excepted, after
 12 the awarding of the contract and the approval of the successful bid-
 13 der's performance bond, if any, the bid guaranty of the remaining
 14 bidders shall be returned to them.

1 19. Award of purchases, contracts or agreements. All purchases,
 2 contracts or agreements which require public advertisement for
 3 bids shall be awarded by the board of trustees to the lowest re-
 4 sponsible bidder.

5 Prior to the award of any other purchase, contract or agreement
 6 the estimated cost of which is \$1,000.00 or more the contracting
 7 agent shall, except in the case of professional services, solicit
 8 quotations therefor whenever practicable, and the award thereof
 9 shall be made, in accordance with section 3, on the basis of the
 10 lowest responsible quotation received which is most advantageous
 11 to the county college, price and other factors considered; provided,
 12 however, if the contracting agent deems it impractical to solicit
 13 competitive quotations or having sought such quotations deter-
 14 mines that the award should not be on the basis of the lowest
 15 quotation received, the contracting agent shall file a statement of
 16 explanation of the reason or reasons therefor which shall be placed
 17 on file with such purchase, contract or agreement.

1 20. Award of contracts when bids are equal. Whenever two or
 2 more quotations or bids of equal amounts are the lowest quotations
 3 or bids submitted by responsible parties, the county college may
 4 award the contract to any one of such parties, as, in its discretion,
 5 it may determine.

G. FORM OF CONTRACTS AND BONDS

1 21. Form and execution of contracts and bonds. ***[All contracts**
 2 **for the performing of work or furnishing of materials, supplies or**
 3 **services shall be in writing.]*** The Board of Higher Education may,
 4 subject to the requirements of law, prescribe the forms and manner
 5 in which contracts shall be made and executed and the form and
 6 manner of execution and approval of all bid, performance and
 7 other bonds.

1 22. Liquidated damages. Any purchase, contract or agreement
 2 made pursuant to this article may include liquidated damages for
 3 the violation of any of the terms and conditions thereof or the

4 failure to perform said contract or agreement in accordance with
5 its terms and conditions or the terms and conditions of this article.

H. CONSTRUCTION CONTRACTS

1 23. Purchases, contracts or agreements for the construction of
2 buildings and other improvements shall be subject to all the terms
3 and conditions of this article and to the terms and conditions of
4 this subdivision H.

1 24. All plans and specifications for the erection, alteration, im-
2 provement or repair of college buildings shall be drawn by or
3 under the supervision of an appropriate officer employed by the
4 college to whom such powers shall have been delegated by the
5 Board of Trustees. ***【No contract for the erection of any building,**
6 **or any part thereof, by any county college shall be entered into**
7 **until the plans and specifications therefor have been submitted to,**
8 **and approved by, the Board of Higher Education and no change in**
9 **any plans or specifications so approved shall be made unless the**
10 **same shall have been submitted to, and approved by, the Board of**
11 **Higher Education. A copy of all plans and specifications and all**
12 **changes therein so approved shall be filed with the Board of Higher**
13 **Education.】***

1 25. In the preparation of plans and specifications for the con-
2 struction, alteration or repair of any building by a county college,
3 when the entire cost of the work and materials will exceed
4 ***【\$5,000.00】*** *\$4,500.00*, separate plans and specifications shall be
5 prepared for each of the following to include all work and materials
6 related thereto or to be performed or furnished in connection there-
6A with:

- 7 (a) the plumbing and gas fitting work;
- 8 (b) the heating and ventilating systems and equipment;
- 9 (c) the electrical work, including any electrical power plants;
- 10 (d) the structural steel and ornamental iron works;
- 11 (e) all other work and materials required for the completion of
12 the project.

13 The ***【county college】*** *contracting agent* shall advertise for
14 and receive in the manner provided by law (1) separate bids for
15 each of the foregoing categories (a) through (e) and (2) bids for
16 all work and materials required to complete the entire project if
17 awarded as a single contract. All bids submitted shall set forth the
18 name or names of, and evidence of performance security from, all
19 subcontractors to whom the bidder will subcontract the work
20 described in the foregoing categories (a) through (e).

21 Contracts shall be awarded to the lowest responsible bidder.
22 A contract shall be awarded in the following manner: if the sum

23 total of the amounts bid by the lowest responsible bidder for each
 24 category (a) through (e) is less than the amount bid by the lowest
 25 responsible bidder for all the work and materials, the county
 26 college shall award separate contracts for each of such categories
 27 to the lowest responsible bidder therefor, but if the sum total of
 28 the amount bid by the lowest responsible bidder for each category
 29 is not less than the amount bid by the lowest responsible bidder
 30 for all the work and materials, the county college shall award a
 31 single contract to the lowest responsible bidder for all of such work
 32 and materials.

1 26. All specifications for the doing of any such construction work
 2 for a county college shall fix the date before which the work shall
 3 be completed, or the number of working days to be allowed for its
 4 completion, and every such contract shall contain a provision for
 5 a deduction from the contract price for any moneys paid by the
 6 county college to any inspector or inspectors necessarily employed
 7 by it on the work for any number of days in excess of the number
 8 allowed in the specifications.

I. SALE OF PERSONAL PROPERTY

1 27. Any county college may, by resolution of its board of trustees,
 2 authorize the sale in the following manner of its personal property
 3 not needed for college purposes:

4 a. If the estimated fair value of the property to be sold exceeds
 5 *~~[\$5,000.00]~~* *\$2,500.00* in any one sale and the property does not
 6 consist of perishable goods, it shall be sold at public sale to the
 7A highest bidder.

7 b. Notice of the date, time and place of the public sale, together
 8 with a description of the items to be sold and the conditions of sale
 9 shall be published once in a legal newspaper. Such sales shall be
 10 held not less than 7 nor more than 14 days after the publication
 11 of the notice thereof.

12 c. Personal property may be sold to the United States, the State
 13 of New Jersey, another county college or to any body politic by
 14 private sale without advertising for bids.

15 d. If no bids are received, the property may then be sold at
 16 private sale without further publication or notice thereof but in
 17 no event at less than the estimated fair value; or the county college
 18 may, if it so elects, reoffer the property at public sale. As used
 19 herein, "estimated fair value" means the market value of the prop-
 20 erty if sold by a willing seller to a willing buyer less the cost to
 21 the college of continuing to store or maintain such property.

22 e. A county college may reject all bids if it determines such
 23 rejection to be in the public interest. In any case in which the

24 college has rejected all bids, it may readvertise such personal
 25 property for a subsequent public sale. If it elects to reject all bids
 26 at a second public sale pursuant to this section, it may then sell
 27 such personal property without further publication or notice
 28 thereof at private sale, provided that in no event shall the nego-
 29 tiated price at the private sale be less than the amount of the
 30 highest bid ***[received]*** **rejected** at the preceding two public
 31 sales, and provided further that in no event shall the terms or condi-
 32 tions of sale be changed or amended.

33 f. If the estimated fair value of the property to be sold does
 34 not exceed ***[\$5,000.00]*** **\$2,500.00** in any one sale or the prop-
 35 erty consists of perishable goods, it may be sold at private sale
 36 without advertising for bids.

J. CONTRACTS EXTENDING BEYOND THE FISCAL YEAR

1 28. Duration of certain contracts. ***[Any]*** **A** county college
 2 may **only** enter into a contract exceeding ***[the fiscal year]*** **12*
 2A *consecutive months** for the:

3 a. supplying of:

4 (1) fuel for heating purposes for any term not exceeding in the
 5 aggregate 3 years; or

6 (2) fuel or oil for use in automobiles, autobuses, motor vehicles
 7 or equipment for any term not exceeding in the aggregate 3 years;
 8 or

9 b. plowing and removal of snow and ice for any term not exceed-
 10 ing in the aggregate 3 years; or

11 c. collection and disposal of garbage and refuse for any term not
 12 exceeding in the aggregate 3 years; or

13 d. data processing programs, systems and services or rental or
 14 lease of data processing equipment for any term of not more than
 15 5 years; or

16 e. insurance for any term of not more than ***[5]*** **3** years; or

17 f. leasing or service of automobiles, motor vehicles, electronic
 18 communications equipment, machinery and equipment of every
 19 nature and kind for any term not exceeding in the aggregate
 20 5 years; provided, however, such contracts shall be entered into
 21 only subject to and in accordance with the rules and regulations
 22 promulgated by the Board of Higher Education; or

23 g. supplying of any product or rendering of any service by a
 24 telephone company which is subject to the jurisdiction of the Board
 25 of Public Utilities for a term not exceeding 5 years; or

26 h. the providing of food supplies and services, including food
 27 supplies and management contracts for student centers, dining
 28 rooms and cafeterias, for a term not exceeding 3 years.

29 All multi-year leases and contracts entered into pursuant to
 30 this section, except contracts for the leasing or servicing of equip-
 31 ment supplied by a telephone company which is subject to the
 32 jurisdiction of the Board of Public Utilities, shall contain a clause
 33 making them subject to the availability and appropriation annually
 34 of sufficient funds to meet the extended obligation or contain an
 35 annual cancellation clause.

K. REGULATIONS OF THE BOARD OF HIGHER EDUCATION

1 29. The Board of Higher Education ***[shall]*** **is authorized to**
 2 adopt and promulgate rules and regulations to implement the pro-
 3 visions of this article.

L. MISCELLANEOUS

1 30. No action for damages for action by officials. No action for
 2 damages shall lie against the Board of Higher Education, any
 3 State official, any county college or its board of trustees or any of
 4 its officers because of any action taken by virtue of the provisions
 5 of this article.

1 31. Indemnity agreement with the United States, etc. Any county
 2 college may enter into an agreement indemnifying the United
 3 States of America or any board, body, officer or agency thereof
 4 from any liability for loss or damage to the person or property
 5 of others resulting from any project undertaken or to be undertaken
 6 by the Federal government for the benefit of such county college
 7 or any project the cost of which or any part thereof is to be paid
 8 out of federal funds.

1 32. Contracts, etc.; validated and confirmed. Any action, pur-
 2 chase, sale, contract or agreement taken, made or entered into prior
 3 to the effective date of this article is hereby validated and confirmed
 4 provided that in no event shall multi-year leases or contracts
 5 entered into prior to the effective date of this article be renewed
 6 or extended except in accordance with the terms and provisions
 7 of this article.

1 *33. P. L. 1968, c. 402 (C. 18A:64-12.1) is repealed.*

1 ***[33.]*** *34.* This act shall take effect ***[immediately]*** *Janu-
 2 ary 1, 1983*.

L. MISCELLANEOUS

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 2 damages shall lie against the Board of Higher Education, any
 3 State official, any county college or its board of trustees or any of
 4 its officers because of any action taken by virtue of the provisions
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 2 college may enter into an agreement indemnifying the United
 3 States of America or any board, body, officer or agency thereof
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 2 chase, sale, contract or agreement taken, made or entered into prior
 3 to the effective date of this article is hereby validated and confirmed
 4 provided that in no event shall multi-year leases or contracts
 5 entered into prior to the effective date of this article be renewed
 6 or extended except in accordance with the terms and provisions
 7 of this article.

1 33. This act shall take effect immediately.

SPARSORSI

STATEMENT

The purpose of this bill is to establish procedures by which county colleges may purchase, contract for the performance of work and the furnishing of materials or supplies. County colleges are not subject to the Local Public Contracts Law, N. J. S. A. 40A:11-1, *et seq.* and have substantially different requirements for contracting procedures than governmental entities covered by the Local Public Contracts Law and Boards of Education covered by the Public Schools Contracts Law, N. J. S. A. 18A:18A-1 *et seq.* Under this law, county colleges will remain subject to the regulatory authority of the Board of Higher Education with respect to these contracting procedures.

A1156 (1982)

**ASSEMBLY HIGHER EDUCATION AND REGULATED
PROFESSIONS COMMITTEE**

STATEMENT TO
ASSEMBLY, No. 1156
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 20, 1982

The Assembly Higher Education and Regulated Professions Committee favorably reports Assembly Bill No. 1156 ACA, the "County College Contracts Law."

PROVISIONS:

Assembly Bill No. 1156 establishes procedures by which county colleges may purchase or contract for the performance of any work or the furnishing or hiring of materials or supplies. The bill covers the following areas of the contracting procedure:

1. Purchase or contract advertising;
2. Joint purchasing agreements;
3. Specifications and plans;
4. Bidding requirements;
5. Awarding of contracts;
6. Form of contracts and bonds;
7. Construction contracts;
8. Sale of county college property; and,
9. Contracts extending beyond the fiscal year.

BACKGROUND:

County colleges are currently subject to the provisions of the "Local Public Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.) which governs the contracting operation for all county and municipal agencies. The unique needs of county colleges as institutions of higher education, however, make the changes in the contracting procedure contained in Assembly Bill No. 1156 advisable.

AMENDMENTS:

The committee made a variety of technical amendments to the bill.

SENATE EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1156

[OFFICIAL COPY REPRINT]

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 28, 1982

The Senate Education Committee favorably reports this bill and endorses the committee statement of the Assembly Higher Education and Regulated Professions Committee which reads as follows:

The Assembly Higher Education and Regulated Professions Committee favorably reports Assembly Bill No. 1156, with Assembly committee amendments, the "County College Contracts Law."

PROVISIONS:

Assembly Bill No. 1156 establishes procedures by which county colleges may purchase or contract for the performance of any work or the furnishing or hiring of materials or supplies. The bill covers the following areas of the contracting procedure:

1. Purchase or contract advertising;
2. Joint purchasing agreements;
3. Specifications and plans;
4. Bidding requirements;
5. Awarding of contracts;
6. Form of contracts and bonds;
7. Construction contracts;
8. Sale of county college property; and,
9. Contracts extending beyond the fiscal year.

BACKGROUND:

County colleges are currently subject to the provisions of the "Local Public Contracts Law," P. L. 1971, c. 198 (C. 40A :11-1 et seq.) which governs the contracting operation for all county and municipal agencies. The unique needs of county colleges as institutions of higher education, however, make the changes in the contracting procedures contained in Assembly Bill No. 1156 advisable.

AMENDMENTS:

The committee made a variety of technical amendments to the bill.

FISCAL NOTE TO
ASSEMBLY, No. 1156

STATE OF NEW JERSEY

DATED: JUNE 18, 1982

Assembly Bill No. 1156, of 1982, would establish procedures by which county colleges may purchase, contract for the performance of work, and the furnishing of materials and supplies. (County colleges are not subject to the Local Public Contracts Law, and have substantially different requirements for contracting procedures vis-a-vis governmental entities.) Under this proposed legislation, county colleges will remain subject to the regulatory authority of the Board of Higher Education with respect to these contracting procedures.

The Department of Higher Education indicates that the fiscal impact is unknown. Implementation of this bill should not increase costs to county colleges or to the State.

The Office of Legislative Services concurs.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1980, c. 67.