

27:7-31

LEGISLATIVE HISTORY CHECKLIST
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(State transportation contracts--
amend bidding requirements)

NJSA: 27:7-31

LAWS OF: 1993 **CHAPTER:** 313

BILL NO: S227

SPONSOR(S) Littell

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** ---
SENATE: Transportation

AMENDED DURING PASSAGE: Yes Amendments during passage
Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** December 16, 1993
SENATE: December 13, 1993

DATE OF APPROVAL: December 23, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[SECOND REPRINT]

SENATE, No. 227

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Senator LITTELL

1 AN ACT concerning bidding requirements on State transportation
2 contracts and amending R.S.27:7-31 and P.L.1979, c.150.

3

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

6 1. R.S.27:7-31 is amended to read as follows:

7 27:7-31. A proposal bond [equal to at least 50% of the bid] in
8 an amount ², not to exceed 50% of the bid,² to be determined by
9 the commissioner, executed by the contractor with such sureties
10 as shall be approved by the commissioner in favor of the State of
11 New Jersey, shall accompany each bid and shall be held as
12 security for the faithful performance of the contractor in that, if
13 awarded the contract, the bidder will deliver the contract within
14 10 working days after the award, properly executed and secured
15 by satisfactory bonds in accordance with the provisions of
16 N.J.S.2A:44-143 to N.J.S.2A:44-147 and specifications for the
17 project. The commissioner may require in addition to the
18 proposal bond such additional evidence of the ability of a
19 contractor to perform the work required by the contract as [he]
20 the commissioner may deem necessary and advisable.

21 (cf: P.L.1977, c.67, s.2)

22 2. Section 11 of P.L.1979, c.150 (C.27:25-11) is amended to
23 read as follows:

24 11. a. All purchases, contracts or agreements pursuant to this
25 act shall be made or awarded directly by the corporation, except
26 as otherwise provided in this act, only after public advertisement
27 for bids therefor, in the manner provided in this act,
28 notwithstanding the provisions to the contrary of P.L.1948, c.92
29 (C.52:18A-1 et seq.) and chapters 25, 32, 33, 34 and 35 of Title 52
30 of the Revised Statutes.

31 b. Whenever advertising is required: (1) specifications and
32 invitations for bids shall permit such full and free competition as
33 is consistent with the procurement of supplies and services
34 necessary to meet the requirements of the corporation; (2) the
35 advertisement for bids shall be in such newspaper or newspapers
36 selected by the corporation as will best give notice thereof to
37 bidders and shall be sufficiently in advance of the purchase or
38 contract to promote competitive bidding; (3) the advertisement
39 shall designate the time and place when and where sealed
40 proposals shall be received and publicly opened and read, the
41 amount of the cash, certified check, cashiers check or bank
42 check, if any, which shall accompany each bid, and such other

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 STR committee amendments adopted March 18, 1993.

² Senate floor amendments adopted December 2, 1993.

1 terms as the corporation may deem proper.

2 c. The corporation may reject any or all bids not in accord
3 with the advertisement of specifications, or may reject any or all
4 bids if the price of the work materials is excessively above the
5 estimate cost or when the corporation shall determine that it is
6 in the public interest to do so. The corporation shall prepare a
7 list of the bids, including any rejected and the cause therefor.
8 The corporation may accept bids containing minor informalities.
9 Awards shall be made by the corporation with reasonable
10 promptness by written notice to the responsible bidder whose bid,
11 conforming to the invitation for bids, will be the most
12 advantageous to the State, price and other factors considered.

13 d. A ¹[proposal] bid¹ bond [equal to at least 50% of the bid] in
14 an amount ², not to exceed 50% of the bid, ² to be determined by
15 the corporation ¹[executed by the contractor]¹ with such sureties
16 as shall be approved by the corporation in favor of the State of
17 New Jersey, ¹or a deposit consisting of a cashier's check,
18 certified check or letter of credit in an amount set forth by the
19 corporation,¹ shall accompany each bid and shall be held as
20 security for the faithful performance of the contractor in that, if
21 awarded the contract, the bidder will deliver the contract within
22 10 working days after the ¹notice, of¹ award, properly executed
23 and secured by satisfactory bonds in accordance with the
24 provisions of N.J.S.2A:44-143 through N.J.S.2A:44-147 and
25 specifications for the project. The corporation may require in
26 addition to the ¹[proposal] bid¹ bond ¹or deposit¹ such additional
27 evidence of the ability of a contractor to perform the work
28 required by the contract as it may deem necessary and advisable.
29 All ¹[proposal] bid¹ bonds ¹or deposits¹ which have been
30 delivered with the bids, except those of the two lowest
31 responsible bidders, shall be returned within 30 working days
32 after such bids are received.

33 e. If the bidder fails to provide a satisfactory ¹[proposal] bid¹
34 bond ¹or deposit¹ as provided in subsection d. of this section, [his]
35 the bid shall be rejected.

36 f. The corporation shall determine the terms and conditions of
37 the various types of agreements or contracts, including provisions
38 for adequate security, the time and amount or percentage of each
39 payment thereon and the amount to be withheld pending
40 completion of the contract, and it shall issue and publish rules
41 and regulations concerning such terms and conditions, standard
42 contract forms and such other rules and regulations concerning
43 purchasing or procurement, not inconsistent with any applicable
44 law, as it may deem advisable to promote competition and to
45 protect the public interest.

46 g. Any purchase, contract or agreement pursuant to subsection
47 a. hereof may be made, negotiated or awarded by the corporation
48 without advertising under the following circumstances:

49 (1) When the aggregate amount involved does not exceed
50 [\$7,500.00] the amount determined pursuant to section 2 of
51 P.L.1954, c.48 (C.52:34-7); or

52 (2) In all other cases when the corporation seeks:

53 (a) To acquire public or private entities engaged in the
54 provision of public transportation service, used public

1 transportation equipment or existing public transportation
2 facilities or rights of way; or

3 (b) To acquire subject matter which is that described in
4 section 4 of P.L.1954, c.48 (C.52:34-9); or

5 (c) To make a purchase or award or make a contract or
6 agreement under the circumstances described in section 5 of
7 P.L.1954, c.48 (C.52:34-10); or

8 (d) To contract pursuant to section 6 of this act.

9 h. The corporation shall require that all persons proposing to
10 submit bids on improvements to capital facilities and equipment
11 shall first be classified by the corporation as to the character
12 ¹[and] ¹or¹ amount ¹or both¹ of ¹the¹ work on which they shall be
13 qualified to submit bids. Bids shall be accepted only from persons
14 qualified in accordance with such classification.

15 (cf: P.L.1979, c.150, s.11)

16 3. This act shall take effect immediately.

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21 Amends bidding requirements for State transportation contracts
22 and permits proposal bond amounts to be determined by
23 regulation rather than by statute.

1 (c) To make a purchase or award or make a contract or
2 agreement under the circumstances described in section 5 of
3 P.L.1954, c.48 (C.52:34-10); or

4 (d) To contract pursuant to section 6 of this act.

5 h. The corporation shall require that all persons proposing to
6 submit bids on improvements to capital facilities and equipment
7 shall first be classified by the corporation as to the character and
8 amount of work on which they shall be qualified to submit bids.
9 Bids shall be accepted only from persons qualified in accordance
10 with such classification.

11 (cf: P.L.1979, c.150, s.11)

12 3. This act shall take effect immediately.
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15 STATEMENT

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17 This bill removes the statutory minimum amount on proposal
18 bonds that must accompany each bid submitted in response to
19 certain Department of Transportation and New Jersey Transit
20 Corporation advertisements for bids. Instead, the department
21 and the corporation would be able to set the proposal bond bid
22 amounts through regulation. In this way, competition would be
23 fostered during difficult economic times by avoiding potentially
24 costly bidding requirements and thereby helping to encourage
25 more businesses to submit bids for State contracts. This change
26 in determining the proposal bond amount would parallel current
27 practices of Construction Management Services and the Purchase
28 Bureau in the Department of the Treasury. Currently, these two
29 entities, which purchase equipment for State agencies, except for
30 New Jersey Transit, and which contract for capital construction
31 of nonhighway and mass transit facilities, are statutorily
32 permitted to establish proposal bond amounts by regulation.

33 In addition, the \$7,500 bidding threshold for New Jersey Transit
34 would be replaced with the current statutory guideline that is in
35 effect for other State agencies.
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40 Amends bidding requirements for State transportation contracts
41 and permits proposal bond amounts to be determined by
42 regulation rather than by statute.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 227

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 1993

The Senate Transportation Committee favorably reports Senate Bill No. 227 with committee amendments.

This bill, as amended by the committee, removes the statutory minimum amount on proposal bonds that must accompany each bid submitted in response to certain Department of Transportation and New Jersey Transit Corporation advertisements for bids. Instead, the department would be able to set the proposal bond bid amounts through regulation while New Jersey Transit would also set bid bonds or deposit amounts by regulation. In this way, competition would be fostered during difficult economic times by avoiding potentially costly bidding requirements and thereby helping to encourage more businesses to submit bids for State contracts. This change in determining the proposal and bid, or deposit, amounts would parallel certain current practices of Construction Management Services and the Purchase Bureau in the Department of the Treasury. Currently, these two entities, which purchase equipment for State agencies, except for New Jersey Transit, and which contract for capital construction of nonhighway and mass transit facilities, are statutorily permitted to establish proposal bond amounts by regulation.

In addition, the \$7,500 bidding threshold for New Jersey Transit would be replaced with the current statutory guideline that is in effect for other State agencies.

Amendments approved by the committee change the terminology for NJ Transit from proposal bonds to bid bonds and permit a deposit rather than a bond.

Technical review was performed on this prefiled bill, as required under Joint Rule 18A of the Senate and General Assembly.