

18A:64-6

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(State colleges--contract  
bid awards)

NJSA: 18A:64-6

LAWS OF: 1992 CHAPTER: 61

BILL NO: S266

SPONSOR(S) Ewing & Feldman

DATE INTRODUCED: February 10, 1992

COMMITTEE: ASSEMBLY: Education  
SENATE: Education

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: ASSEMBLY: May 14, 1992  
SENATE: June 25, 1992

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes  
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

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[SECOND REPRINT]

SENATE, No. 266

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 10, 1992

By Senators EWING and Feldman

1 AN ACT concerning public institutions of higher education and  
2 amending N.J.S.18A:64-6 <sup>1</sup>[and] <sup>1</sup> N.J.S.18A:72A-5 <sup>1</sup>, and  
3 P.L.1986, c.43, supplementing chapter 64 of Title 18A of the  
4 New Jersey Statutes<sup>1</sup> and repealing section 25 of P.L.1986,  
5 c.43.  
6

7 BE IT ENACTED *by the Senate and General Assembly of the*  
8 *State of New Jersey:*

- 9 1. N.J.S.18A:64-6 is amended to read as follows:  
10 18A:64-6. The board of trustees of a State college shall,  
11 subject to the general policies, guidelines, and procedures set by  
12 the Board of Higher Education, have general supervision over and  
13 shall be vested with the conduct of the college. It shall, subject  
14 to the general policies, guidelines, and procedures set by the  
15 Board of Higher Education, have the power and duty to:  
16 a. Adopt and use a corporate seal;  
17 b. Determine the educational curriculum and program of the  
18 college;  
19 c. Determine policies for the organization, administration and  
20 development of the college;  
21 d. Study the educational and financial needs of the college;  
22 annually acquaint the Governor and Legislature with the  
23 condition of the college; and prepare, and after concurrence by  
24 and jointly with the Board of Higher Education, present the  
25 annual budget to the Governor and Legislature in accordance with  
26 law;  
27 e. Disburse all moneys appropriated to the college by the  
28 Legislature and all moneys received from tuition, fees, auxiliary  
29 services and other sources;  
30 f. Direct and control expenditures and transfers of funds  
31 appropriated to the college and tuition received by the college, in  
32 accordance with the provisions of the State budget and  
33 appropriation acts of the Legislature, reporting changes and  
34 additions thereto and transfers thereof to the Director of the  
35 Division of Budget and Accounting in the State Department of  
36 the Treasury and to the Chancellor of Higher Education and as to  
37 funds received from other sources, direct and control  
38 expenditures and transfers in accordance with the terms of any  
39 applicable trusts, gifts, bequests, or other special provisions. All  
40 accounts of the college shall be subject to audit by the State at  
41 any time;  
42 g. In accordance with the provisions of the State budget and

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SED committee amendments adopted March 19, 1992.

<sup>2</sup> Senate floor amendments adopted May 7, 1992.

1 appropriation acts of the Legislature, appoint and fix the  
2 compensation of a president of the college, who shall be the  
3 executive officer of the college and an ex officio member of the  
4 board of trustees, without vote, and shall serve at the pleasure of  
5 the board of trustees;

6 h. Notwithstanding the provisions of Title 11, Civil Service, of  
7 the Revised Statutes, upon nomination by the president appoint a  
8 treasurer and such deans and other professional members of the  
9 academic, administrative and teaching staffs as defined in  
10 section 13 of P.L.1986, c.42 (C.18A:64-21.2) as shall be required  
11 and fix their compensation and terms of employment in  
12 accordance with salary ranges and policies adopted by the Board  
13 of Higher Education, and concurred in by the Governor, which  
14 salary policies shall prescribe qualifications for various  
15 classifications and shall limit the percentage of the educational  
16 staff that may be in any given classification;

17 i. Upon nomination by the president, appoint, remove, promote  
18 and transfer such other officers, agents or employees as may be  
19 required for carrying out the purposes of the college and assign  
20 their duties, determine their salaries and prescribe qualifications  
21 for all positions, all in accordance with the provisions of Title 11,  
22 Civil Service, of the Revised Statutes;

23 j. Grant diplomas, certificates and degrees;

24 k. Pursuant to the provisions of the "State College Contracts  
25 Law," P.L.1986, c.43 (C.18A:64-52 et seq.) enter into contracts  
26 and agreements for the purchase of lands, buildings, equipment,  
27 materials, supplies and services; enter into contracts and  
28 agreements with the State or any of its political subdivisions or  
29 with the United States, or with any public body, department or  
30 other agency of the State or the United States or with any  
31 individual, firm, or corporation, which are deemed necessary or  
32 advisable by the board for carrying out the purposes of the  
33 college;

34 l. If necessary, take and condemn land and other property in  
35 the manner provided by the "Eminent Domain Act of 1971,"  
36 P.L.1971, c.361 (C.20:3-1 et seq.), whenever authorized by law to  
37 purchase land or other property;

38 m. Adopt, after consultation with the president and faculty,  
39 bylaws and make and promulgate such rules, regulations and  
40 orders, not inconsistent with the provisions of this article, that  
41 are necessary and proper for the administration and operation of  
42 the college and the carrying out of its purposes;

43 n. Establish fees for room and board sufficient for the  
44 operation, maintenance, and rental of student housing and food  
45 service facilities;

46 o. Fix and determine, within guidelines established by the  
47 Board of Higher Education, tuition rates and other fees to be paid  
48 by students;

49 p. Accept from any government or governmental department,  
50 agency or other public or private body or from any other source  
51 grants or contributions of money or property, which the board  
52 may use for or in aid of any of its purposes;

53 q. Acquire by gift, purchase, condemnation or otherwise, own,  
54 lease, dispose of, use and operate property, whether real,

1 personal or mixed, or any interest therein, which is necessary or  
2 desirable for college purposes;

3 r. Employ architects to plan buildings; secure bids for the  
4 construction of buildings and for the equipment thereof; make  
5 contracts for the construction of buildings and for equipment; and  
6 supervise the construction of buildings. All capital expenditures  
7 in excess of \$500,000.00 shall be subject to the approval of the  
8 Board of Higher Education;

9 s. Manage and maintain, and provide for the payment of all  
10 charges and expenses in respect to all properties utilized by the  
11 college;

12 t. Borrow money for the needs of the college, as deemed  
13 requisite by the board, in such amounts, and for such time and  
14 upon such terms as may be determined by the board, provided  
15 that this borrowing shall not be deemed or construed to create or  
16 constitute a debt, liability, or a loan or pledge of the credit, or be  
17 payable out of property or funds, other than moneys appropriated  
18 for that purpose, of the State;

19 u. Authorize any new program, educational department or  
20 school which will require, at the time of establishment or  
21 thereafter, an additional expenditure of money, if the  
22 establishment thereof is approved by the Board of Higher  
23 Education and provision is made therefor by law; [and]

24 v. Formulate and submit to the Board of Higher Education an  
25 institutional plan consistent with the rules and regulations of the  
26 Board of Higher Education; and

27 w. Pursuant to the "State College Contracts Law," P.L.1986,  
28 c.43 (C.18A:64-52 et seq.), award contracts and agreements for  
29 the performance of any construction work or the furnishing of  
30 any materials or supplies to the lowest responsible bidder whose  
31 bid, conforming to the invitation for bids, will be most  
32 advantageous to the State colleges.

33 (cf: P.L.1986, c.42, s.4)

34 <sup>1</sup>2. (New section) a. Whenever the entire cost for the  
35 construction, alteration or repair of any building by a State  
36 college will exceed the amount determined pursuant to subsection  
37 b. of section 3 of P.L.1986, c.43 (C.18A:64-54), the contracting  
38 agent shall advertise for and receive in the manner provided by  
39 law:

40 (1) separate bids for the following categories of work:

41 (a) the plumbing and gas fitting work;

42 (b) the heating and ventilating systems and equipment;

43 (c) the electrical work, including any electrical power plants;

44 (d) the structural steel and ornamental iron work;

45 (e) all other work and materials required for the completion of  
46 the project, or

47 (2) bids for all work and materials required to complete the  
48 entire project if awarded as a single contract, or

49 (3) both (1) and (2) above.

50 All bids submitted shall set forth the names and license  
51 numbers of, and evidence of performance security from, all  
52 subcontractors to whom the bidder will subcontract the work  
53 described in the foregoing categories (a) through (e).

54 b. <sup>2</sup>[Each successful bidder, including all subcontractors, shall

1 as a condition of receiving the contract agree to employ, if  
2 available, at least 50% of the employees to be employed on the  
3 project from the residents of the county in which the project is  
4 located.

5 c.]<sup>2</sup> Contracts shall be awarded to the lowest responsible  
6 bidder whose bid, conforming to the invitation for bids, will be  
7 the most advantageous to the State college.<sup>1</sup>

8 <sup>13.</sup> Section 14 of P.L.1986, c.43 (C.18A:64-65) is amended to  
9 read as follows:

10 14. All advertisements for bids shall be published in a legal  
11 newspaper sufficiently in advance of the date fixed for receiving  
12 the bids to promote competitive bidding but in no event less than  
13 [10] 30 days prior to that date. The advertisement shall designate  
14 the manner of submitting and of receiving the bids and the time  
15 and place at which the bids will be received. If the published  
16 specifications provide for receipt of bids by mail, those bids  
17 which are mailed to the State college shall be sealed and shall be  
18 opened only at such time and place as all bids received are  
19 unsealed and announced. At that time and place, the contracting  
20 agent of the State college shall publicly receive the bids and  
21 thereupon immediately proceed to unseal them and publicly  
22 announce the contents, which announcement shall be made in the  
23 presence of any parties bidding or their agents who are then and  
24 there present. A proper record of the prices and terms shall be  
25 made. No bids shall be received after the time designated in the  
26 advertisement.<sup>1</sup>

27 (cf: P.L.1986, c.43, s.14)

28 <sup>1</sup>[2.] 4.<sup>1</sup> N.J.S.18A:72A-5 is amended to read as follows:

29 18A:72A-5. The authority shall have power:

30 (a) To adopt by-laws for the regulation of its affairs and the  
31 conduct of its business;

32 (b) To adopt and have an official common seal and alter the  
33 same at pleasure;

34 (c) To maintain an office at such place or places within the  
35 State as it may designate;

36 (d) To sue and be sued in its own name, and plead and be  
37 impleaded;

38 (e) To borrow money and to issue bonds and notes and other  
39 obligations of the authority and to provide for the rights of the  
40 holders thereof as provided in this chapter;

41 (f) To acquire, lease as lessee, hold and dispose of real and  
42 personal property or any interest therein, in the exercise of its  
43 powers and the performance of its duties under this chapter;

44 (g) To acquire in the name of the authority by purchase or  
45 otherwise, on such terms and conditions and in such manner as it  
46 may deem proper, or by the exercise of the power of eminent  
47 domain, any land or interest therein and other property which it  
48 may determine is reasonably necessary for any project, including  
49 any lands held by any county, municipality or other governmental  
50 subdivision of the State; and to hold and use the same and to sell,  
51 convey, lease or otherwise dispose of property so acquired, no  
52 longer necessary for the authority's purposes;

53 (h) To receive and accept, from any Federal or other public  
54 agency or governmental entity, grants or loans for or in aid of the

1 acquisition or construction of any project, and to receive and  
2 accept aid or contributions from any other source, of either  
3 money, property, labor or other things of value, to be held, used  
4 and applied only for the purposes for which such grants, loans and  
5 contributions may be made;

6 (i) To prepare or cause to be prepared plans, specifications,  
7 designs and estimates of costs for the construction and equipment  
8 of projects for participating colleges under the provisions of this  
9 chapter, and from time to time to modify such plans,  
10 specifications, designs or estimates;

11 (j) By contract or contracts or by its own employees to  
12 construct, acquire, reconstruct, rehabilitate and improve, and  
13 furnish and equip, projects for participating colleges [provided,  
14 however, that in any contract or contracts undertaken by the  
15 authority for the construction, reconstruction, rehabilitation or  
16 improvement of any public college project where the cost of such  
17 work will exceed \$25,000.00, the person preparing the plans and  
18 specifications for such work shall prepare separate plans and  
19 specifications for:

20 (1) The plumbing and gas fitting, and all work and materials  
21 kindred thereto,

22 (2) The steam and hot water heating and ventilating apparatus,  
23 steam power plants and all work and materials kindred thereto,

24 (3) The electrical work,

25 (4) Structural steel and ornamental iron work and materials,  
26 and

27 (5) All other work and materials required to complete the  
28 building;

29 and the authority shall receive (a) separate bids for each of  
30 said branches of the work and (b) bids for all the work and  
31 materials required to complete the project to be included in a  
32 single over-all contract, in which case there shall be set forth in  
33 the bid the name or names of all subcontractors to whom the  
34 bidder will subcontract for the furnishing of any of the work and  
35 materials specified in (a) above.

36 If the sum total of the amounts bid by the lowest responsible  
37 bidder for each such branch is less than the amount bid by the  
38 lowest responsible bidder, for all of the work and materials, the  
39 authority shall award separate contracts for each of such  
40 branches to the lowest responsible bidder therefor, but if the sum  
41 total of the amount bid by the lowest responsible bidder for each  
42 such branch is not less than the amount bid by the lowest  
43 responsible bidder for all the work and materials, the authority  
44 shall award a single over-all contract to the lowest responsible  
45 bidder for all of such work and materials.

46 In every case in which a contract is awarded under (b) above,  
47 all payments required to be made by the authority under such  
48 contract for work and materials supplied by a subcontractor shall,  
49 upon the certification of the contractor of the amount due to the  
50 subcontractor, be paid directly to the subcontractor] <sup>1</sup>[secure  
51 bids for the construction of buildings and equipment; and  
52 supervise the construction of buildings]; however, in any contract  
53 or contracts undertaken by the authority for the construction,  
54 reconstruction, rehabilitation or improvement of any public

1 college project where the cost of such work will exceed \$25,000,  
2 the contracting agent shall advertise for and receive in the  
3 manner provided by law:

4 (1) separate bids for the following categories of work;

5 (a) the plumbing and gas fitting work;

6 (b) the heating and ventilating systems and equipment;

7 (c) the electrical work, including any electrical power plants;

8 (d) the structural steel and ornamental iron work;

9 (e) all other work and materials required for the completion of  
10 the project, or

11 (2) bids for all work and materials required to complete the  
12 entire project if awarded as a single contract; or

13 (3) both (1) and (2) above.

14 All bids submitted shall set forth the names and license  
15 numbers of, and evidence of performance security from, all  
16 subcontractors to whom the bidder will subcontract the work  
17 described in the foregoing categories (1)(a) through (1)(e).

18 <sup>2</sup>[Each successful bidder, including all subcontractors, shall, as  
19 a condition of receiving the contract, agree to employ, if  
20 available, at least 50% of the employees to be employed on the  
21 project from the residents of the county in which the project is  
22 located.]<sup>2</sup>

23 Contracts shall be awarded to the lowest responsible bidder  
24 whose bid, conforming to the invitation for bids, will be the most  
25 advantageous to the authority<sup>1</sup>;

26 (k) To determine the location and character of any project to  
27 be undertaken pursuant to the provisions of this chapter, and to  
28 construct, reconstruct, maintain, repair, operate, lease, as lessee  
29 or lessor, and regulate the same; to enter into contracts for any  
30 or all such purposes; to enter into contracts for the management  
31 and operation of a project, and to designate a participating  
32 college as its agent to determine the location and character of a  
33 project undertaken by such participating college under the  
34 provisions of this chapter and, as the agent of the authority, to  
35 construct, reconstruct, maintain, repair, operate, lease, as lessee  
36 or lessor, and regulate the same, and, as agent of the authority,  
37 to enter into contracts for any and all such purposes including  
38 contracts for the management and operation of such project;

39 (l) To establish rules and regulations for the use of a project or  
40 any portion thereof and to designate a participating college as its  
41 agent to establish rules and regulations for the use of a project  
42 undertaken by such participating college;

43 (m) Generally to fix and revise from time to time and to  
44 charge and collect rates, rents, fees and other charges for the use  
45 of and for the services furnished or to be furnished by a project  
46 or any portion thereof and to contract with holders of its bonds  
47 and with any other person, party, association, corporation or  
48 other body, public or private, in respect thereof;

49 (n) To enter into any and all agreements or contracts, execute  
50 any and all instruments, and do and perform any and all acts or  
51 things necessary, convenient or desirable for the purposes of the  
52 authority or to carry out any power expressly given in this  
53 chapter;

54 (o) To invest any moneys held in reserve or sinking funds, or

1 any moneys not required for immediate use or disbursement, at  
2 the discretion of the authority, in such obligations as are  
3 authorized by law for the investment of trust funds in the custody  
4 of the State Treasurer.

5 (cf: P.L.1968, c.109, s.1)

6 <sup>1</sup>[3.] 5.<sup>1</sup> Section 25 of P.L.1986, c.43 (C.18A:64-76) is repealed.

7 <sup>1</sup>[4.] 6.<sup>1</sup> This act shall take effect immediately.

8

9

10

11

12 Provides more flexibility for receipt of bids by State colleges and  
13 the N.J. Educational Facilities Authority.



1 for the construction of buildings and equipment; and supervise the  
2 construction of buildings;

3 (k) To determine the location and character of any project to  
4 be undertaken pursuant to the provisions of this chapter, and to  
5 construct, reconstruct, maintain, repair, operate, lease, as lessee  
6 or lessor, and regulate the same; to enter into contracts for any  
7 or all such purposes; to enter into contracts for the management  
8 and operation of a project, and to designate a participating  
9 college as its agent to determine the location and character of a  
10 project undertaken by such participating college under the  
11 provisions of this chapter and, as the agent of the authority, to  
12 construct, reconstruct, maintain, repair, operate, lease, as lessee  
13 or lessor, and regulate the same, and, as agent of the authority,  
14 to enter into contracts for any and all such purposes including  
15 contracts for the management and operation of such project;

16 (l) To establish rules and regulations for the use of a project or  
17 any portion thereof and to designate a participating college as its  
18 agent to establish rules and regulations for the use of a project  
19 undertaken by such participating college;

20 (m) Generally to fix and revise from time to time and to  
21 charge and collect rates, rents, fees and other charges for the use  
22 of and for the services furnished or to be furnished by a project  
23 or any portion thereof and to contract with holders of its bonds  
24 and with any other person, party, association, corporation or  
25 other body, public or private, in respect thereof;

26 (n) To enter into any and all agreements or contracts, execute  
27 any and all instruments, and do and perform any and all acts or  
28 things necessary, convenient or desirable for the purposes of the  
29 authority or to carry out any power expressly given in this  
30 chapter;

31 (o) To invest any moneys held in reserve or sinking funds, or  
32 any moneys not required for immediate use or disbursement, at  
33 the discretion of the authority, in such obligations as are  
34 authorized by law for the investment of trust funds in the custody  
35 of the State Treasurer.

36 (cf: P.L.1968, c.109, s.1)

37 3. Section 25 of P.L.1986, c.43 (C.18A:64-76) is repealed.

38 4. This act shall take effect immediately.

39  
40  
41 STATEMENT

42  
43 This bill amends the State college autonomy law to provide  
44 greater flexibility for State college boards of trustees to engage  
45 in bidding activities. The bill adds to the powers and duties of  
46 trustees of State colleges the authority to award contracts for  
47 performance of any construction work or the furnishing of any  
48 supplies to the lowest bidder, whose bid will be most  
49 advantageous to the colleges. Contracts and agreements would  
50 be awarded pursuant to the "State College Contracts Law,"  
51 P.L.1986, c.43 (C.18A:64-52 et seq.).

52 The bill also amends the powers of the New Jersey Educational  
53 Facilities Authority in order to grant the authority more  
54 flexibility in the awarding of contracts for the construction of

1 buildings and for equipment.  
2 Finally, the bill repeals section 25 of the "State College  
3 Contracts Law" (C.18A:64-76) which specifies how bids are to be  
4 prepared and contracts awarded.  
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7 \_\_\_\_\_  
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9 Provides more flexibility for receipt of bids by State colleges and  
10 the N.J. Educational Facilities Authority.

SENATE EDUCATION COMMITTEE

STATEMENT TO

**SENATE, No. 266**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 19, 1992

The Senate Education Committee favorably reports this bill with committee amendments.

This bill amends the State college autonomy laws to provide greater flexibility for State college boards of trustees to engage in bidding activities. The bill adds to the powers and duties of trustees of State colleges the authority to award contracts for performance of any construction work or the furnishing of any supplies to the lowest bidder, whose bid will be most advantageous to the colleges. Contracts and agreements would be awarded pursuant to the "State College Contracts Law," P.L. 1986, c. 43 (C. 18A:64-52 et seq.).

The bill also amends the powers of the New Jersey Educational Facilities Authority in order to grant the authority more flexibility in the awarding of contracts for the construction of buildings and for equipment.

Finally, the bill repeals section 25 of the "State College Contracts Law" (C. 18A:64-76) which specifies how bids are to be prepared and contracts awarded.

The committee amended the bill to provide the contracting agent with the option of advertising for bids either as separate bids for specific categories of work usually handled by subcontractors, or bids for the project as a single contract, or both types of bids. In addition, the committee amended the bill to require that a prime contractor must name the subcontractors with whom he will subcontract at the time of making the bid. The committee also added the requirement that successful bidders, including subcontractors, must agree to employ, if available, at least 50% of the employees for the project from the residents in the county in which the project is located.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

[SECOND REPRINT]

**SENATE, No. 266**

**STATE OF NEW JERSEY**

DATED: JUNE 18, 1992

The Assembly Education Committee reports favorably Senate Bill No. 266 (2R).

This bill amends the State college autonomy laws to provide greater flexibility for State college boards of trustees to engage in bidding activities. The bill adds to the powers and duties of trustees of State colleges the authority to award contracts for performance of any construction work or the furnishing of any supplies to the lowest bidder, whose bid will be most advantageous to the colleges. Contracts and agreements would be awarded pursuant to the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.).

The bill also amends the powers of the New Jersey Educational Facilities Authority in order to grant the authority more flexibility in the awarding of contracts for the construction of buildings and for equipment.

The bill provides that the contracting agent has the option of advertising for bids either as separate bids for specific categories of work usually handled by subcontractors, or bids for the project as a single contract, or both types of bids. In addition, the bill requires that a prime contractor must name the subcontractors with whom he will subcontract at the time of making the bid.

Finally, the bill repeals section 25 of the "State College Contracts Law" (C.18A:64-76) which specifies how bids are to be prepared and contracts awarded.

The Chancellor of the Department of Higher Education, Building Contractors Association of New Jersey and the New Jersey State College Governing Boards Association testified in favor of the bill.