

LEGISLATIVE HISTORY CHECKLIST

NJSA: 18A:18A-3.1 et al

(Driver education - allow Board of Education contracts with private driver education schools)

LAWS OF: 1983

CHAPTER: 281

Bill No: S3243

Sponsor(s): Dumont and others

Date Introduced: April 25, 1983

Committee: Assembly: \_\_\_\_\_

Senate: Education

Amended during passage: Yes

Amendments during passage denoted by asterisks

Date of Passage: Assembly: July 7, 1983

Senate: June 30, 1983

Date of Approval: July 29, 1983

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

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**SENATE, No. 3243**

**STATE OF NEW JERSEY**

INTRODUCED APRIL 25, 1983

By Senators DUMONT, FELDMAN, DALTON and EWING

Referred to Committee on Education

AN Act authorizing boards of education to contract with private driver education schools, amending N. J. S. 18A:18A-5 **\*[and]\*** **\***,\* N. J. S. 18A:18A-42 **\*and** N. J. S. 18A:26-2\*, and supplementing chapter 18A of Title 18A of the New Jersey Statutes.

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

1 1. (New section) Boards of education may enter into contracts  
 2 with private driver education schools for the purpose of providing  
 3 driver education courses to students on an individual or group  
 4 basis, according to rules prescribed by the Commissioner of Edu-  
 5 cation, when it is determined by the local board of education that  
 6 the private driver education school can provide *\*behind-the-wheel\**  
 7 driver education that is substantially equivalent to that provided  
 8 by the board of education, and at less cost than current or other  
 9 proposed programs.

10 Each private driver education school shall hold a current license  
 11 or certificate of approval issued by the Director of the Division of  
 12 Motor Vehicles pursuant to P. L. 1951, c. 216 (C. 39:12-1 et seq.),  
 13 and be approved for the purposes of this act by the Commissioner  
 14 of Education.

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

2 18A:18A-5. Exceptions to requirement for advertising. Any  
 3 purchase, contract or agreement of the character described in  
 4 N. J. S. 18A:18A-4 may be made, negotiated or awarded by the  
 5 board of education by resolution at a public meeting without public  
 6 advertising for bids and bidding therefor if

**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:**

**\*—Senate committee amendments adopted June 20, 1983.**

7 a. The subject matter thereof consists of:

8 (1) Professional services;

9 (2) Extraordinary unspecifiable services which cannot reason-  
10 ably be described by written specifications, which exception as to  
11 extraordinary unspecifiable services shall be construed narrowly in  
12 favor of open competitive bidding where possible and the State  
13 Board of Education is authorized to establish rules and regula-  
14 tions limiting its use in accordance with the intention herein  
15 expressed; and the board of education shall in each instance state  
16 supporting reasons for its action in the resolution awarding the  
17 contract for extraordinary unspecifiable services;

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

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

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

24 (6) Food supplies, including food supplies for home economic  
25 classes, when purchased pursuant to rules and regulations of the  
26 State board and in accordance with the provisions of N. J. S.  
27 18A:18A-6;

28 (7) The supplying of any product or the rendering of any service  
29 by a public utility, which is subject to the jurisdiction of the Board  
30 of Public Utility Commissioners, in accordance with the tariffs and  
31 schedules of charges made, charged and exacted, filed with said  
32 board;

33 (8) The printing of bonds and documents necessary to the issu-  
34 ance and sale thereof by a board of education;

35 (9) Equipment repair service if in the nature of an extraordinary  
36 unspecifiable service and necessary parts furnished in connection  
37 with such services;

38 (10) Insurance, including the purchase of insurance coverage  
39 and consultant services;

40 (11) Publishing of legal notices in newspapers as required by  
41 law;

42 (12) The acquisition of artifacts or other items of unique in-  
43 trinsic, artistic or historic character;

44 (13) Election expenses, including advertising expenses inci-  
45 dental thereto;

46 (14) Electronic data processing service obtained from another  
47 board of education;

48 (15) *Driver education courses provided by licensed driver educa-*  
49 *tion schools.*

50 b. It is to be made or entered into with the United States of  
51 America, the State of New Jersey, county or municipality or any  
52 board, body, officer, agency or authority or any other state or sub-  
53 division thereof.

54 c. The board of education has advertised for bids pursuant to  
55 N. J. S. 18A:18A-4 on two occasions and has received no bids in  
56 response to its advertisement and, after reasonable inquiry, it is  
57 determined that no board, body, officer, agency or authority of the  
58 United States, or of the State of New Jersey or of any county or  
59 municipality in which the board of education is located is willing  
60 and able to perform any work or furnish or hire any materials or  
61 supplies in conformity with the specifications of the board of  
62 education. Any such contract or agreement entered into pursuant  
63 to this subsection c. may be made, negotiated or awarded only upon  
64 adoption of a resolution by the affirmative vote of two-thirds of  
65 the full membership of the board of education at a meeting thereof  
66 authorizing such a contract or agreement. Any amendment or  
67 modification of the terms, conditions, restrictions and specifications  
68 which were the subject of the competitive bidding pursuant to  
69 N. J. S. 18A:18-4 shall be stated in the resolution awarding the  
70 contract.

71 d. The board of education has advertised for bids pursuant to  
72 N. J. S. 18A:18A-4 on two occasions and has rejected such bids on  
73 each occasion because the board of education has determined that  
74 they are not reasonable as to price on the basis of cost estimates  
75 prepared for the board of education prior to the advertising  
76 therefor or have not been independently arrived at in open compe-  
77 tition, but no such contract or agreement may be entered into after  
78 such rejection of bids, unless:

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

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

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

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

93 Whenever a board of education shall determine that a bid was  
94 not arrived at independently in open competition pursuant to this  
95 subsection d. of N. J. S. 18A:18A-5, it shall thereupon notify the  
96 county prosecutor of the county in which the board of education is  
97 located and the Attorney General of the facts upon which its  
98 determination is based, and when appropriate, it may institute  
99 appropriate proceedings in any State or federal court of compe-  
100 tent jurisdiction for a violation of any State or federal antitrust  
101 law or laws relating to the unlawful restraint of trade.

102 e. The board of education has solicited and received at least  
103 three quotations on materials, supplies or equipment for which a  
104 State contract has been issued pursuant to N. J. S. 18A:18A-10,  
105 and the lowest responsible quotation is at least 10% less than the  
106 price the board would be charged for the identical materials,  
107 supplies or equipment, in the same quantities, under the State  
108 contract.

109 Any such contract or agreement entered into pursuant to sub-  
110 section d. or subsection e. may be made, negotiated or awarded only  
111 upon adoption of a resolution by the affirmative vote of two-thirds  
112 of the full membership of the board of education at a meeting  
113 thereof authorizing such a contract or agreement.

1 3. N. J. S. 18A:18A-42 is amended to read as follows:

2 18A:18A-42. Duration of certain contracts. Any board of edu-  
3 cation may enter into a contract exceeding the fiscal year for the

4 a. Supplying of:

5 (1) Fuel for heating purposes, for any term not exceeding in  
6 the aggregate, three years; or

7 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles  
8 or equipment for any term not exceeding in the aggregate, three  
9 years; or

10 b. The plowing and removal of snow and ice for any term not  
11 exceeding in the aggregate, three years; or

12 c. The collection and disposal of garbage and refuse, for any  
13 term not exceeding in the aggregate, three years; or

14 d. Data processing service, for any term of not more than five  
15 years; or

16 e. Insurance, including the purchase of insurance coverages,  
17 insurance consultant or administrative services, and including par-  
18 ticipation in a joint self-insurance fund, risk management program  
19 or related services provided by a school board insurance group, for  
20 any term of not more than three years; or

21 f. Leasing or servicing of automobiles, motor vehicles, electronic  
22 communications equipment, machinery and equipment of every

23 nature and kind, for any term not exceeding the aggregate five  
 24 years; provided, however, such contracts shall be entered into only  
 25 subject to and in accordance with rules and regulations promul-  
 26 gated by the State Board of Education; \*or\*

27 g. The supplying of any product or the rendering of any service  
 28 by a telephone company which is subject to the jurisdiction of the  
 29 Board of Public Utilities for a term not exceeding five years\***[**. All  
 30 multiyear leases and contracts entered into pursuant to this section  
 31 18A:18A-42 except contracts for the leasing or servicing of equip-  
 32 ment supplied by a telephone company which is subject to the  
 33 jurisdiction of the Board of Public Utilities and except contracts  
 34 for insurance coverages, insurance consultant or administrative  
 35 services, participation or membership in a joint self-insurance  
 36 fund, risk management programs or related services of a school  
 37 board insurance group, shall contain a clause making them subject  
 38 to the availability and appropriation annually of sufficient funds  
 39 as may be required to meet the extended obligation, or contain an  
 40 annual cancellation clause**]**\*; \*or\*

41 *\*h. Materials, supplies or services that are required on a recur-*  
 42 *ring basis from year to year, for any term not exceeding in the*  
 43 *aggregate two years; however, such contract may be renewed yearly*  
 44 *for a period not exceeding three additional years without any fur-*  
 45 *ther solicitation for bids or bidding upon a finding by the board*  
 46 *that the services are being performed in an effective and efficient*  
 47 *manner, or that the materials and supplies continue to meet the*  
 48 *original specifications. If a board of education elects to renew an*  
 49 *existing contract, the terms and conditions of the existing contract*  
 50 *shall remain substantially unchanged and any increase in the con-*  
 51 *tract cost over the three year period shall be no greater than a*  
 52 *total of 20% over the initial cost; or\**

53 **\*[h.]\*** *\*i.\* Driver education instruction conducted by private,*  
 54 *licensed driver education schools, for any term not exceeding in*  
 55 *the aggregate, three years.*

56 *\*All multiyear leases and contracts entered into pursuant to this*  
 57 *section 18A:18A-42 except contracts for the leasing or servicing of*  
 58 *equipment supplied by a telephone company which is subject to the*  
 59 *jurisdiction of the Board of Public Utilities and except contracts*  
 60 *for insurance coverages, insurance consultant or administrative*  
 61 *services, participation or membership in a joint self-insurance fund,*  
 62 *risk management programs or related services of a school board*  
 63 *insurance group, shall contain a clause making them subject to the*  
 64 *availability and appropriation annually of sufficient funds as may*  
 65 *be required to meet the extended obligation, or contain an annual*  
 66 *cancellation clause.\**

1     \*4. N. J. S. 18A :26-2 is amended to read as follows :

2     18A :26-2. No teaching staff member shall be employed in the  
3 public schools by any board of education unless he is the holder of  
4 a valid certificate to teach, administer, direct or supervise the teach-  
5 ing, instruction, or educational guidance of, or to render or ad-  
6 minister, direct or supervise the rendering of nursing service to,  
7 pupils in such public schools and of such other certificate, if any,  
8 as may be required by law.

9     *Notwithstanding the foregoing certification requirement, boards*  
10 *of education shall be permitted to enter into contracts with properly*  
11 *licensed commercial drivers' schools for the purpose of providing*  
12 *behind-the-wheel instruction as a part of a regular curriculum*  
13 *driver education course, provided that classroom instruction in*  
14 *driver education is conducted by a certified teaching staff member.*  
15 *When classroom instruction in driver education is conducted by a*  
16 *certified teaching staff member persons providing behind-the-wheel*  
17 *instruction need not be certified teachers but shall be properly*  
18 *licensed driving instructors under rules and regulations of the*  
19 *Division of Motor Vehicles.\**

1     \***[4.]**\* \*5.\* This act shall take effect immediately.

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23 nature and kind, for any term not exceeding the aggregate five  
 24 years; provided, however, such contracts shall be entered into only  
 25 subject to and in accordance with rules and regulations promul-  
 26 gated by the State Board of Education;

27 g. The supplying of any product or the rendering of any service  
 28 by a telephone company which is subject to the jurisdiction of the  
 29 Board of Public Utilities for a term not exceeding five years. All  
 30 multiyear leases and contracts entered into pursuant to this section  
 31 18A:18A-42 except contracts for the leasing or servicing of equip-  
 32 ment supplied by a telephone company which is subject to the  
 33 jurisdiction of the Board of Public Utilities and except contracts  
 34 for insurance coverages, insurance consultant or administrative  
 35 services, participation or membership in a joint self-insurance  
 36 fund, risk management programs or related services of a school  
 37 board insurance group, shall contain a clause making them subject  
 38 to the availability and appropriation annually of sufficient funds  
 39 as may be required to meet the extended obligation, or contain an  
 40 annual cancellation clause;

41 *h. Driver education instruction conducted by private, licensed*  
 42 *driver education schools, for any term not exceeding in the aggre-*  
 43 *gate, three years.*

1 4. This act shall take effect immediately.

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#### STATEMENT

This bill authorizes local boards of education to contract with private driver education schools for the conducting of driver education courses as part of the curriculum. The driver education schools must be licensed by the Director of the Division of Motor Vehicles and approved by the Commissioner of Education. Such contracts have been exempted from the bidding requirements in order to assure the boards of education more discretion in the driver education school they select. A maximum term of three years has been authorized so as to provide a degree of continuity in the courses taught by the selected driver education school.

53243 (1983)



SENATE EDUCATION COMMITTEE

STATEMENT TO

**SENATE, No. 3243**

with Senate committee amendments

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**STATE OF NEW JERSEY**

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DATED: JUNE 20, 1983

This bill allows boards of education to contract with private driver education schools to provide driver education to students if (1) the program is equivalent to the school's program and (2) the private program would cost less than the current or other proposed programs.

The bill exempts the private driver education program from the advertising and bidding requirements of the Public School Contracts law and allows the program to continue for three years.

**AMENDMENTS:**

The amendments are necessary to conform Senate Bill No. 3243 to current law (P. L. 1983, c. 108).

The amendments also specify that only behind-the-wheel training may be contracted out. Classroom instruction must be given by certified teaching staff members.