

18A:18A-1 to 18A:18-50

LEGISLATIVE HISTORY CHECKLIST

HJSA 18A:18A-1 to 18A:18-50 ( Public School Contracts Law)

LAWS OF 1977 CHAPTER 114

Bill No. A807

Sponsor(s) Burstein

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CHAPTER 114 LAWS OF N. J. 19 77  
APPROVED 6-2-77

FOURTH OFFICIAL COPY REPRINT]  
**ASSEMBLY, No. 807**

**STATE OF NEW JERSEY**

PRE-FILED FOR INTRODUCTION IN THE 1976 SESSION

By Assemblymen BURSTEIN, BAER, HOLLENBECK, VISOTCKY  
and MARTIN

AN ACT concerning education, revising parts of the statutory law,  
and enacting an additional chapter to Title 18A of the New  
Jersey Statutes to be known as the "Public School Contracts  
Law," and repealing chapter 18 of Title 18A of the New Jersey  
Statutes and all amendments and supplements thereto.

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

1 Section 1.

CHAPTER 18A

PUBLIC SCHOOL CONTRACTS LAW

ARTICLE 1. GENERAL PROVISIONS

1 18A:18A-1. Short title; citation.

2 18A:18A-2. Definitions.

ARTICLE 2. PURCHASES, CONTRACTS, AGREEMENTS, ADVERTISING;  
EXCEPTIONS

1 18A:18A-3. Purchases, contracts and agreements not requiring  
2 advertising.

3 18A:18A-4. Contracts and agreements requiring advertising.

4 18A:18A-5. Exceptions to requirement for advertising.

5 18A:18A-6. Standards for purchase of fresh milk; penalties;  
6 rules and regulations.

7 18A:18A-7. Emergency purchases and contracts.

8 18A:18A-8. Contracts not to be divided.

9 18A:18A-9. Periodic solicitation of bids.

10 18A:18A-10. Purchase through State agency.

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

## ARTICLE 3. JOINT PURCHASING AGREEMENTS

- 1 18A:18A-11. Joint purchases by districts, municipalities, coun-  
 2 ties; authority.
- 3 18A:18A-12. Contents of agreement.
- 4 18A:18A-13. Purchases and agreements subject to law and rules  
 5 and regulations.
- 6 18A:18A-14. Controversies or disputes; determination; appeal.

## ARTICLE 4. SPECIFICATIONS AND PLANS

- 1 18A:18A-15. Specifications generally.
- 2 18A:18A-16. Preparation and approval of plans and specifica-  
 3 tions for public schoolhouses.
- 4 18A:18A-17. Facilities for handicapped persons.
- 4A 18A:18A-17.1. Commissioner of Education authorized to with-  
 4B hold State aid.
- 5 18A:18A-18. Separate plans for various types of work; bids;  
 6 contracts.
- 7 18A:18A-19. Number of working days specified.
- 8 18A:18A-20. American \*\*\*[and New Jersey]\*\*\* goods and  
 9 products to be used where possible.

## ARTICLE 5. BIDDING

- 1 18A:18A-21. Advertisements for bids; bids; general require-  
 2 ments.
- 2A 18A:18A-22. Bids to conform to specifications; rejection of bids.
- 3 18A:18A-23. Certificate of bidder showing ability to perform  
 4 contract.
- 5 18A:18A-24. Security to accompany bid; amount.
- 6 18A:18A-25. Guarantee certificate.
- 7 18A:18A-26. Classification of bidders as requisite to bidding.

## ARTICLE 6. QUALIFICATION OF BIDDERS

- 1 18A:18A-27. Authority of State Board of Education to adopt  
 2 regulations providing for qualification of bidders.
- 3 18A:18A-28. Application for classification; fee.
- 4 18A:18A-29. Classification by classes; notice to applicants.
- 5 18A:18A-30. Appeal from determination as to classification;  
 6 hearings; change; approval by State board.
- 7 18A:18A-31. Change in classification as affecting bids; review  
 8 and reconsideration of classification.
- 9 18A:18A-32. Bidders not submitting statements, within six  
 10 months ineligible to bid; affidavit of no change in status to accom-  
 11 pany bid; reports as to performance, etc.
- 12 18A:18A-33. Penalties for false statements.

## ARTICLE 7. RESERVED

- 1 18A:18A-34. Blank.
- 2 18A:18A-35. Blank.

## ARTICLE 8. AWARDING CONTRACTS

- 1 18A:18A-36. Time for making awards, deposits returned.
- 2 18A:18A-37. **\*\*[Contracts to be awarded to lowest responsible**
- 3 **bidder.]\*\* \*\*\*[\*\*Blank\*\*]\*\*** *\*\*\* Contracts to be awarded to the*
- 3A *lowest responsible bidder; quotations solicited for unadvertised*
- 3B *contracts.\*\*\**
- 4 18A:18A-38. Award of contracts when bids are equal.
- 5 18A:18A-39. Filing copies of contracts.

## ARTICLE 9. FORM OF CONTRACT AND BONDS

- 1 18A:18A-40. Form and execution of contracts and bonds.
- 2 18A:18A-41. Liquidated damages.

## ARTICLE 10. CONTRACTS EXTENDING BEYOND THE FISCAL YEAR

- 1 18A:18A-42. Duration of certain contracts.

## ARTICLE 11. SUPERVISION, INSPECTION, CONDEMNATION, REJECTION

- 1 18A:18A-43. Supervision of school building repairs.
- 2 18A:18A-44. Inspection, condemnation and rejection of work
- 3 and materials.

## ARTICLE 12. SALE OF PERSONAL PROPERTY

- 1 18A:18A-45. Manner and method of sale.

## ARTICLE 13. MISCELLANEOUS

- 1 18A:18A-46. No action for damages for action by officials.
- 2 18A:18A-47. Indemnity agreement with the United States, etc.
- 3 18A:18A-48. Contracts, etc.; validated and confirmed.
- 4 18A:18A-49. No municipal permit required for school building.
- 5\*\*\*\*18A:18A-49.1. *Transportation of pupils to and from schools.\*\*\*\**

## ARTICLE 14. REPEALER

- 1 18A:18A-50. Statutes repealed.

## ARTICLE 1. GENERAL PROVISIONS

- 1 18A:18A-1. Short title; citation. This chapter shall be known
- 2 and may be cited as the "Public School Contracts Law."
- 3 Source: New.
- 1 18A:18A-2. Definitions. As used in this chapter, unless the
- 2 context otherwise indicates:
- 3 a. "Board of education" means and includes the board of educa-
- 4 tion of any local school district, consolidated school district,
- 5 regional school district, county vocational school and any other
- 6 board of education or other similar body other than the State
- 7 Board of Education or the State Board of Higher Education,

8 established and operating under the provisions of Title 18A of the  
 9 New Jersey Statutes and having authority to make purchases and  
 10 to enter into contracts, agreements or leases for the performance  
 11 of any work or the furnishing or hiring of any materials, supplies,  
 12 equipment or services usually required, the cost or contract price  
 13 is to be paid with or out of board funds.

14 b. "Contracting agent" means *\*\*\*the secretary, business*  
 15 *administrator or\*\*\** the business manager of the *\*\*\*[contracting*  
 16 *unit]\*\*\* \*\*\*board of education\*\*\** having the power to prepare  
 17 advertisements, to advertise for and receive bids and to make  
 18 awards for the *\*\*\*[contracting unit]\*\*\* \*\*\*board of education\*\*\**  
 19 in connection with purchases, contracts or agreements as permitted  
 20 by this chapter, but if there be no *\*\*\*secretary, business admini-*  
 20A *strator or\*\*\** business manager such officer, committees or em-  
 20B ployees to whom such power has been delegated by the *\*\*\*[con-*  
 20C *tracting unit]\*\*\* \*\*\*board of education\*\*\**.

21 *\*\*\*[c.]\*\*\** "Contracting unit" means any board of education or  
 21A district.]\*\*\*

21B *\*\*\*[d.]\*\*\* \*\*\*c.\*\*\** "Contracts" for the purpose of this chapter  
 21C means contracts or agreements for the performance of work or the  
 21D furnishing or hiring of services, materials, or supplies as distin-  
 21E guished from contracts of employment.

22 *\*\*\*[e.]\*\*\* \*\*\*d.\*\*\** "District" means and includes any local  
 23 school district, consolidated school district, regional school district,  
 24 county vocational school and any other board of education or other  
 25 similar body other than the State board, established under the  
 26 provisions of Title 18A of the New Jersey Statutes.

27 *\*\*\*[f.]\*\*\* \*\*\*e.\*\*\** "Legal newspaper" means a newspaper  
 28 circulating in the district, printed and published in the English  
 29 language at least once a week for at least 1 year continuously.

30 *\*\*\*[g.]\*\*\* \*\*\*f.\*\*\** "Materials" includes goods and property  
 31 subject to article 2 of Title 12A of the New Jersey Statutes, appa-  
 32 ratus, or any other tangible thing, except real property or any  
 32A interest therein.

33 *\*\*\*[h.]\*\*\* \*\*\*g.\*\*\** "Extraordinary unspecifiable services"  
 34 means services *\*\*\*\*\*[\*\*\*\*\*and products\*\*\*\*\*]\*\*\*\*\** which are spe-  
 35 cialized and qualitative in nature requiring expertise, extensive  
 35A training and proven reputation in the field of endeavor.

36 *\*\*\*[i.]\*\*\* \*\*\*h.\*\*\** "Professional services" means services  
 37 rendered or performed by a person authorized by law to practice a  
 38 recognized profession and whose practice is regulated by law and  
 39 the performance of which services requires knowledge of an ad-

40 vanced type in a field of learning acquired by a prolonged formal  
 41 course of specialized instruction and study as distinguished from  
 42 general academic instruction or apprenticeship and training. Pro-  
 43 fessional services also means services rendered in the performance  
 44 of work that is original and creative in character in a recognized  
 45 field of artistic endeavor.

46 \*\*\*[j.]\*\*\* \*\*\*i.\*\*\* "Project" means any work, undertaking,  
 47 \*\*\*[program, activity, development, redevelopment,]\*\*\* construc-  
 47A tion or \*\*\*[reconstruction]\*\*\* \*\*\*alteration\*\*\*.

48 \*\*\*[k.]\*\*\* \*\*\*j.\*\*\* "Purchases" are transactions, for a valu-  
 49 able consideration, creating or acquiring an interest in goods,  
 50 services and property, except real property or any interest therein.

51 \*\*\*[l.]\*\*\* \*\*\*k.\*\*\* "Work" includes services and any other  
 52 activity of a tangible or intangible nature performed or assumed  
 53 pursuant to a contract or agreement with a \*\*\*[contracting  
 53A unit]\*\*\* \*\*\*board of education\*\*\*.

54 Source: C. 18A:18-2.1 (1971, c. 42, s. 1); N. J. S. 18A:18-8.

ARTICLE 2. PURCHASES, CONTRACTS, AGREEMENTS, ADVERTISING:  
 EXCEPTIONS

1 18A:18A-3. Purchases, contracts and agreements not requiring  
 2 advertising. Any purchase, contract or agreement for the perform-  
 3 ance of any work or the furnishing or hiring of materials or sup-  
 4 plies, the cost or price of which, together with any other sums  
 5 expended or \*\*\*foreseeably\*\*\* to be expended for the perform-  
 6 ance of any work or services in connection with the same  
 7 \*\*\*[immediate program, undertaking, activity or]\*\*\* project or  
 8 the furnishing of similar materials or supplies during the same  
 9 fiscal year paid with or out of school funds, does not exceed the  
 10 total sum of \$2,500.00 in the fiscal year or, in the case of purchases  
 11 that are not annually recurring, in a period of 1 year may be  
 12 made, negotiated and awarded by a contracting agent when so  
 13 authorized by resolution of the \*\*\*[contracting unit]\*\*\* \*\*\*board  
 14 of education\*\*\* without public advertising for bids and bidding  
 15 therefor.

16 Source: C. 40A:11-3 (1971, c. 198, s. 3).

1 18A:18A-4. Contracts and agreements requiring advertising.  
 2 Every contract or agreement for the performance of any work or  
 3 the furnishing or hiring of any materials or supplies, the cost or  
 4 the contract price whereof is to be paid with or out of school funds,  
 5 not included within the terms of N. J. S. 18A:18A-3, shall be made  
 6 and awarded only by the \*\*\*[contracting unit]\*\*\* \*\*\*board of  
 7 education\*\*\* after public advertising for bids and bidding therefor,

8 except as is provided otherwise in this chapter or specifically by  
8A any other law.

9 No work, materials or supplies shall be undertaken, acquired  
10 or furnished for a sum exceeding in the aggregate \$2,500.00 except  
11 by contract or agreement.

12 Source: C. 40A:11-4 (1971, c. 198, s. 4).

1 18A:18A-5. Exceptions to requirement for advertising. Any  
2 purchase, contract or agreement of the character described in  
3 N. J. S. 18A:18A-4 may be made, negotiated or awarded by the  
4 **\*\*\*[contracting unit]\*\*\*** **\*\*\*board of education by resolution at a**  
4A **public meeting\*\*\*** without public advertising for bids and bidding  
5 therefor if

6 a. The subject matter thereof consists of:

7 (1) Professional services **\*\*[or extraordinary]\*\*** **\*\***;

8 (2) *Extraordinary* **\*\*** unspecifiable services **\*\*\*\*\*[\*\*\*and**  
9 **products\*\*\*]** **\*\*\*\*\*** which cannot reasonably be described by written  
10 specifications, which exception as to extraordinary unspecifiable  
11 services **\*\*\*\*\*[\*\*\*and products\*\*\*]** **\*\*\*\*\*** shall be construed nar-  
12 rowly in favor of open competitive bidding where possible and the  
13 State Board of Education is authorized to establish rules and  
14 regulations limiting its use in accordance with the intention herein  
15 expressed; and the **\*\*\*[contracting unit]\*\*\*** **\*\*\*board of educa-**  
16 **tion\*\*\*** shall in each instance state supporting reasons for its action  
17 in the resolution awarding the contract for **\*\*[professional or]\*\***  
17A **extraordinary unspecifiable services** **\*\*\*[and shall cause such reso-**  
17B **lution to be printed once in a newspaper authorized by law to**  
17C **publish its legal advertisements]** **\*\*\*** **\*\*\*\*\*[\*\*\*and prod-**  
17D **ucts\*\*\*]** **\*\*\*\*\***;

18 **\*\*[(2)]\*\*** **\*\*(3)\*\*** The doing of any work by employees of the  
18A contracting unit;

19 **\*\*[(3)]\*\*** **\*\*(4)\*\*** The printing of all legal notices; and legal  
20 briefs, records and appendices to be used in any legal proceeding  
21 in which the contracting party may be a party;

22 **\*\*[(4)]\*\*** **\*\*(5)\*\*** Textbooks<sup>\*\*\*</sup>, **\*\*\*\*\*[or other]** **\*\*\*\*\*** copy-  
22A *righted materials* **\*\*\*** **\*\*\*\*\*[and]** **\*\*\*\*\*** **\*\*\*\*\***, **\*\*\*\*\*** kindergarten  
22B supplies **\*\*\*\*\***, *and student produced publications and services*  
22C *incidental thereto* **\*\*\*\*\***;

23 **\*\*[(5)]\*\*** **\*\*(6)\*\*** Food supplies, including food supplies for  
24 home economic classes, when purchased pursuant to rules and  
25 regulations of the State board and in accordance with the provi-  
26 sions of N. J. S. 18A:18A-6;

27     \*\*[(6)]\*\* \*(7)\* The supplying of any product or the render-  
 28 ing of any service by a public utility, which is subject to the  
 29 jurisdiction of the Board of Public Utility Commissioners, in  
 30 accordance with tariffs and schedules of charges made, charged  
 31 and exacted, filed with said board;

32     \*\*[(7)]\*\* \*(8)\* The printing of bonds and documents neces-  
 33 sary to the issuance and sale thereof by a \*\*\*[contracting unit]\*\*\*  
 33A \*\*\*board of education\*\*\*;

34     \*\*[(8)]\*\* \*(9)\* Equipment repair service if in the nature of an  
 35 extraordinary unspecifiable service and necessary parts furnished  
 36 in connection with such services;

37     \*\*\*\*\*\*[(9)]\*\* \*(10)\* Specialized machinery or equipment  
 38 of a technical nature as will not reasonably permit the drawing of  
 39 specifications and the procurement thereof without advertising  
 39A is in the public interest;\*\*\*\*

39B     \*\*\*\*(10) Insurance, including the purchase of insurance coverage  
 39C and consultant services;\*\*\*\*

40     \*\*[(10)]\*\* \*(11)\* Publishing of legal notices in newspapers  
 41 as required by law;

42     \*\*[(11)]\*\* \*(12)\* The acquisition of artifacts or other items  
 43 of unique, intrinsic, artistic or historic character\*\*\*[.]\*\*\* \*\*\*,\*\*\*

43A     \*\*\* (13) Election expenses, including advertising expenses inci-  
 43B dental thereto.\*\*\*

44     b. It is to be made or entered into with the United States of  
 45 America, the State of New Jersey, county or municipality or any  
 46 board, body, officer, agency or authority or any other state or sub-  
 46A division thereof.

47     c. The \*\*\*[contracting unit]\*\*\* \*\*\*board of education\*\*\* has  
 47A advertised for bids pursuant to N. J. S. 18A:18A-4 on two occa-  
 48 sions and has received no bids in response to its advertisement and,  
 49 after reasonable inquiry, it is determined that no board, body,  
 50 officer, agency or authority of the United States, or of the State of  
 51 New Jersey or of any county or municipality in which the \*\*\*[con-  
 52 tracting unit]\*\*\* \*\*\*board of education\*\*\* is located is willing  
 53 and able to perform any work or furnish or hire any materials or  
 54 supplies in conformity with the specifications of the \*\*\*[contracting  
 55 unit]\*\*\* \*\*\*board of education\*\*\*. Any such contract or agreement  
 56 entered into pursuant to this subsection c. may be made, negotiated  
 57 or awarded only upon adoption of a resolution by the affirmative  
 58 vote of two-thirds of the full membership of the board \*\*\*of  
 59 education\*\*\* at a meeting thereof authorizing such a contract or  
 60 agreement. Any amendment or modification of the terms, condi-

61 tions, restrictions and specifications which were the subject of the  
62 competitive bidding pursuant to N. J. S. 18A:18A-4 shall be stated  
63 in the resolution awarding the contract.

64 d. The \*\*\*[contracting unit]\*\*\* \*\*\*board of education\*\*\* has  
65 advertised for bids pursuant to N. J. S. 18A:18A-4 on two occasions  
66 and \*\*\*[the governing body thereof]\*\*\* has rejected such bids on  
66A each occasion because the \*\*\*[contracting unit]\*\*\* \*\*\*board of edu-  
67 cation\*\*\* has determined that they are not reasonable as to price on  
68 the basis of cost estimates prepared for the \*\*\*[contracting  
69 unit]\*\*\* \*\*\*board of education\*\*\* prior to the advertising therefor  
70 or have not been independently arrived at in open competition, but  
71 no such contract or agreement may be entered into after such  
71A rejection of bids, unless:

72 (1) Notification of the intention to negotiate and a reasonable  
73 opportunity to negotiate shall have been given by the \*\*\*[contract-  
74 ing unit]\*\*\* \*\*\*board of education\*\*\* to each responsible bidder;

75 (2) The negotiated price is lower than the lowest rejected bid  
76 price of a responsible bidder who bid thereon and is the lowest  
77 negotiated price offered by any responsible supplier and is a rea-  
78 sonable price for such work materials, supplies or services:

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

83 (4) The negotiated price is lower than the price of the same or  
84 equivalent materials or supplies available from the State, county  
85 or municipality in which the \*\*\*[contracting unit]\*\*\* \*\*\*board of  
85A education\*\*\* is located.

86 Whenever a \*\*\*[contracting unit]\*\*\* \*\*\*board of education\*\*\*  
87 shall determine that a bid was not arrived at independently in open  
88 competition pursuant to this subsection 4 of N. J. S. 18A:18A-5,  
89 it shall thereupon notify the county prosecutor of the county in  
89A which the \*\*\*[contracting unit]\*\*\* \*\*\*board of education\*\*\* is  
90 located and the Attorney General of the facts upon which its  
91 determination is based, and when appropriate, it may institute  
92 appropriate proceedings in any State or Federal court of compe-  
93 tent jurisdiction for a violation of any State or Federal antitrust  
94 law or laws relating to the unlawful restraint of trade.

95 Any such contract or agreement entered into pursuant to this  
96 subsection d. may be made, negotiated or awarded only upon  
97 adoption of a resolution by the affirmative vote of two-thirds of the  
98 full membership of the \*\*\*[governing body of the contracting

99 unit]\*\*\* \*\*board of education\*\*\* at a meeting thereof authorizing  
99A such a contract or agreement.

100 Source: N. J. S. 18A:18-5.

1 18A:18A-6. Standards for purchase of fresh milk; penalties;  
2 rules and regulations. In purchases of fresh milk and as a condition  
3 thereof, the board \*\*\*of education\*\*\* shall require each vendor to  
4 agree in writing to purchase during the year in which he pro-  
5 poses to furnish such milk to the school district an amount of  
6 fresh milk from New Jersey producers or associations of pro-  
7 ducers at least equal to the amount he proposes to furnish to  
8 the school district plus an amount equal to the amount, if any,  
9 he shall be required to furnish to any other school district  
10 in the State. Every such agreement shall be filed by the board  
10A of education with the Secretary of Agriculture who shall be  
11 charged with the duty of enforcing the provisions of this section.  
12 Failure by any vendor to purchase milk in compliance with his  
13 agreement shall subject him to a penalty of not less than \$100.00 nor  
14 more than \$500.00 per day for each day of noncompliance, unless  
15 he can prove to the satisfaction of the \*\*\*\*[secretary]\*\*\*\*  
16 \*\*\*\*Secretary\*\*\*\* that he is unable to obtain sufficient  
16A milk from New Jersey producers or associations of pro-  
17 ducers to enable him to comply with his agreement. In the  
18 absence of such proof, the penalties herein provided for shall be  
19 enforced and collected by the Secretary of Agriculture in the name  
20 of the respective school district in a summary proceeding in  
21 accordance with the Penalty Enforcement Law (N. J. S. 2A:58-1  
22 et seq.). The penalty, when recovered, shall be paid to the school  
23 district so named in the proceeding. Any vendor found guilty of  
24 violating his agreement shall be ineligible for any contract award  
25 under this section for a period of 3 years thereafter.

26 The Secretary of Agriculture shall adopt and promulgate such  
27 rules and regulations as shall be necessary for the proper operation  
28 and enforcement of this section.

29 Source: N. J. S. 18A:18-5.1 amended 1971, c. 284.

1 18A:18A-7. Emergency purchases and contracts. Any purchase,  
2 contract or agreement may be made, negotiated or awarded for a  
3 \*\*\*[contracting unit]\*\*\* \*\*board of education\*\*\* without public  
4 advertising for bids and bidding therefor notwithstanding that the  
5 cost or contract price will exceed \$2,500.00, when an emergency  
6 affecting the health or safety of occupants of school property  
7 requires the immediate delivery of the articles or the performance  
8 of the service, provided that the awarding or making of such

9 purchases, contracts or agreements are made in the following  
9A manner:

10 a. A written requisition for the performance of such work or  
11 labor, or the furnishing of materials, supplies or services is filed  
12 with the contracting agent or his deputy in charge describing the  
13 nature of the emergency, the time of its occurrence and the need  
14 for invoking this section, certified by the \*\*\*[officer in charge of the  
15 department]\*\*\* *employee in charge of the building, facility or*  
15A *equipment*\*\*\* wherein the emergency occurred. 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 or  
18 labor, materials, supplies or services.

19 b. Upon the furnishing of such work or labor, materials, supplies  
20 or services, in accordance with the terms of the contract or agree-  
21 ment, the contractor furnishing such work or labor, materials,  
22 supplies or services, shall be entitled to be paid therefor and the  
23 \*\*\*[contracting unit]\*\*\* *board of education*\*\*\* shall be obli-  
24 gated for said payment. The \*\*\*[governing body of the contracting  
25 unit]\*\*\* *board of education*\*\*\* shall take such action as shall  
25A be required to provide for the payment of the contract price.

26 c. The State Board of Education \*\*[may]\*\* *shall*\*\* prescribe  
27 rules and procedures to implement the requirements of this section.  
28 Source: C. 40A:11-6 (1971, c. 198, s. 6).

1 18A:18A-8. Contracts not to be divided. No purchase, contract  
2 or agreement, which is single in character or which necessarily or  
3 by reason of the quantities required to effectuate the purpose of  
4 the purchase, contract or agreement, includes the furnishing of  
5 additional services *or equipment*\*\*\* or buying \*\*\*[or hiring  
6 of]\*\*\* materials or supplies or the doing of additional work, shall  
7 be subdivided, so as to bring it or any of the parts thereof under the  
8 maximum price or cost limitation of \$2,500.00 thus dispensing with  
9 the requirement of public advertising and bidding therefor\*\*\*[,  
10 and in]\*\*\* *In*\*\*\* purchasing or contracting for, or agreeing  
10A for the furnishing of, any services, *equipment, materials or*  
11 *supplies*,\*\*\* the doing of any work \*\*\*[or the supplying of any  
12 materials or the supplying or hiring of any materials or sup-  
13 plies,]\*\*\* included in or incident to the performance or completion  
14 of any project, \*\*\*[program, activity or undertaking]\*\*\* which is  
15 single in character or inclusive of the furnishing of additional  
16 services *or equipment*\*\*\* or buying \*\*\*[or hiring of]\*\*\*  
16A materials or supplies or the doing of additional work, or which  
17 requires the furnishing of more than one article of equipment or

18 buying \*\*\*[or hiring of]\*\*\* materials or supplies, all of the ser-  
 19 vices, materials or \*\*\*[property]\*\*\* \*\*\*supplies\*\*\* requisite for  
 20 the completion of such project shall be included in one purchase,  
 20A contract or agreement.

21 Source: C. 40A:11-7 (1971, c. 198, s. 7).

1 18A:18A-9. Periodic solicitation of bids. Every \*\*\*[contracting  
 2 unit]\*\*\* \*\*\*board of education\*\*\* shall, \*\*\*on an annual basis  
 3 or\*\*\* at \*\*\*such lesser\*\*\* intervals to be fixed by it, solicit by public  
 4 advertisement the submission of bids for the furnishing of all  
 5 work, materials and supplies which are and which under N. J. S.  
 6 18A:18A-4 can be purchased or agreed or contracted to be furn-  
 7 ished only after public advertisement for bids and bidding therefor  
 8 and all purchases, or contracts or agreements for the furnishing,  
 9 of such work, materials and supplies shall be made and awarded  
 10 only in that manner.

11 Source: N. J. S. 18A:18-5.

1 18A:18A-10. Purchase through State agency. Any \*\*\*[contract-  
 2 ing unit]\*\*\* \*\*\*board of education\*\*\*, without advertising for bids,  
 3 or after having rejected all bids obtained pursuant to advertising  
 4 therefor, may purchase any materials, supplies or equipment pur-  
 5 suant to a contract or contracts for such materials, supplies or  
 6 equipment entered into on behalf of the State by the Division of  
 6A Purchase and Property.

7 Source: C. 18A:18-1.6 (1969, c. 104, s. 2).

### ARTICLE 3. JOINT PURCHASING AGREEMENTS

1 18A:18A-11. Joint purchases by districts, municipalities, coun-  
 2 ties; authority. The boards of education of two or more districts  
 3 may provide jointly by agreement for the purchasing of supplies,  
 4 materials or work for their respective districts, or one or more  
 5 boards of education may provide for such purchases by joint agree-  
 6 ment with the governing body of the municipality or county within  
 7 whose boundaries any such district is wholly or partly located.

8 Source: N. J. S. 18A:18-1.1 amended 1968, c. 422, s. 8.

1 18A:18A-12. Contents of agreement. a. Such agreements shall  
 2 set forth the categories of work, materials and supplies to be  
 3 purchased, the manner of advertising for bids and of awarding of  
 4 contracts, the method of payment by each participating \*\*\*con-  
 5 tracting unit]\*\*\* \*\*\*board of education, municipality or county\*\*\*,  
 6 and other matters deemed necessary to carry out the purposes of  
 7 the agreement.

8 b. Each \*\*\*[participating contracting unit's]\*\*\* \*\*\*partici-  
 9 pant's\*\*\* share of expenditures for purchases under any such

10 agreement shall be appropriated and paid in the manner set forth  
 10A in the agreement and in the same manner as for other expenses of  
 10B the \*\*\*[contracting unit]\*\*\* \*\*\**participant*\*\*\*.

11 Source: N. J. S. 18A:18-1.2, 18A:18-1.4.

1 18A:18A-13. Purchases and agreements subject to law and rules  
 2 and regulations. Such purchases and all agreements pertaining  
 3 thereto shall be subject to all provisions of law and the applicable  
 4 rules and regulations of the State board.

5 Source: N. J. S. 18A:18-1.3.

1 18A:18A-14. Controversies or disputes; determination; appeal.  
 2 In the event that any controversy or dispute shall arise among  
 3 the parties (except a municipality or county) to any such agree-  
 4 ment, the same shall be referred to the county superintendent of  
 5 the county in which the districts are situate for determination and  
 6 his determination thereon shall be binding, subject to appeal to  
 7 the commissioner and the State board pursuant to law. In the event  
 8 that the districts are in more than one county, the controversy or  
 9 dispute shall be referred to the county superintendents of the  
 10 counties for joint determination, and if they shall be unable to  
 11 agree upon a joint determination within 30 days, the controversy  
 12 or dispute shall be referred to the commissioner for determination.

13 Source: N. J. S. 18A:18-1.5 amended 1968, c. 422, s. 9.

#### ARTICLE 4. SPECIFICATIONS AND PLANS

1 18A:18A-15. Specifications generally. Any specifications for an  
 2 acquisition under this chapter, whether by purchase, contract or  
 3 agreement, shall be drafted in a manner to encourage free, open  
 4 and competitive bidding. In particular, no specifications under  
 5 this chapter may:

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

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

15 c. Discriminate on the basis of race, religion, sex, national  
 16 origin; or

17 d. Require, with regard to any purchase, contract or agreement,  
 18 the furnishing of any "brand name," but may in all cases require  
 19 "brand name or equivalent," except that if the materials to be

20 supplied or purchased are patented or copyrighted, such materials  
 21 or supplies may be purchased by specification in any case in which  
 22 the resolution authorizing the purchase, contract, sale or agree-  
 23 ment so indicates, and the special need for such patented or copy-  
 24 righted materials or supplies is directly related to the performance,  
 25 completion or undertaking of the purpose for which the purchase,  
 26 contract or agreement is made; or

27 e. Fail to include any option for renewal, extension, or release  
 28 which the **\*\*\*[contracting unit]\*\*\* *board of education*\*\*\*** may  
 29 intend to exercise or require; or any terms and conditions necessary  
 30 for the performance of any extra work; or fail to disclose any  
 31 matter necessary to the substantial performance of the contract or  
 31A agreement.

32 The specifications for every contract **\*\*\*\*[subject to this**  
 32A **chapter]\*\*\*\* *for public work, the entire cost whereof will***  
 33 ***exceed \$10,000.00*\*\*\*\*** shall provide that the board of education,  
 34 through its authorized agent, shall upon completion of the contract  
 35 report to the department as to the contractor's performance, and  
 36 shall also furnish such report from time to time during performance  
 37 if the contractor is then in default.

38 Any specification adopted by the **\*\*\*[contracting unit]\*\*\***  
 39 ***board of education*\*\*\*** which knowingly excludes prospective  
 40 bidders by reason of the impossibility of performance, bidding or  
 41 qualification by any but one bidder, except as provided herein, shall  
 42 be null and void and of no effect and **\*\*\*[subject]\*\*\* *such*\*\*\***  
 43 purchase, contract or agreement shall be readvertised, and the  
 44 original purchase, contract or agreement shall be set aside by the  
 44A **\*\*\*[contracting unit]\*\*\* *board of education*\*\*\***.

45 Source: N. J. S. 18A :18-14 amended 1968, c. 188, s. 2.

1 18A :18A-16. Preparation and approval of plans and specifica-  
 2 tions for public schoolhouses. All plans and specifications for the  
 3 erection, **\*\*\*\*alteration,\*\*\*\*** improvement or repair of public  
 4 schoolhouses shall be drawn by or under the supervision of  
 5 **\*\*\*\*[the *secretary, business administrator or*\*\*\*** business man-  
 6 ager, but if there be no ***secretary, business administrator or*\*\*\***  
 7 business manager of the district, they may be drawn by or under  
 8 the supervision of]\*\*\*\* an appropriate officer employed by the  
 9 board to whom such power shall have been delegated by the board  
 9A ***of education*\*\*\***.

9B No contract for the erection of any building or any part thereof  
 10 by any board of education of any school district shall be entered  
 11 into until the plans and specifications therefor have been submitted  
 12 to, and approved by, the State board and no change in any such

13 plans or specifications, so approved, shall be made unless the same  
14 shall have been submitted to, and approved by, the State board.  
15 A copy of all plans and specifications, and all changes therein, so  
16 approved, shall be filed forthwith with the State board.

17 Source: N. J. S. 18A:18-2.

1 18A:18A-17. Facilities for handicapped persons. Every board  
2 of education shall require that all plans and specifications for bids  
3 on any contract with the board for the construction, remodeling or  
4 renovation of any public building shall provide facilities for the  
5 physically handicapped.

6 As used in this section, "remodeling or renovation" shall mean  
7 to construct an addition to, alter the design or layout of said public  
8 building so that a change or modification of the entrance facilities,  
9 toilet facilities, or vertical access is achieved, or makes substantial  
10 repairs or alterations. As used herein, "substantial repairs or  
11 alterations" shall mean that if the costs of making such repairs or  
12 alterations:

13 a. Shall exceed 60% of the value of the building the entire build-  
14 ing shall be made to comply with the requirements of this section;

15 b. Shall be between 30% and 60% of the value of the building,  
16 only those portions of the building repaired or altered shall be  
17 made to comply with the requirements of this section; or

18 c. Shall be under 30% of the value of the building such repairs  
19 or alterations shall be either in accordance with the requirement of  
20 this section, or in compliance with their previously required condi-  
21 tion and with the same or equivalent material or equipment, pro-  
22 vided the general safety and public welfare are not thereby  
23 endangered.

24 The value of such public buildings shall be determined by every  
25 board of education in accordance with a formula which shall be  
26 established by the State Board of Education. Said formula may  
27 take into account the size, age, type of construction, original build-  
28 ing cost and replacement cost of any such building.

29 The State Board of Education, by rules and regulations, shall  
30 prescribe the kinds, types and quality of the aforementioned  
31 facilities for the physically handicapped.

32 Source: C. 18A:18-2.2 (1971, c. 42, c. 2 amended 1975, c. 219, s. 1).

1 18A:18A-17.1. Commissioner of Education authorized to with-  
2 hold State aid.

3 The Commissioner of Education is hereby authorized to withhold  
4 all or part of any State aid paid to any school district pursuant to  
5 chapter 58 of Title 18A of the New Jersey Statutes or any other

6 law, unless and until said school district shall comply with the pro-  
7 visions of N. J. S. 18A:18A-17 with respect to facilities for the  
8 physically handicapped.

9 Source: C. 18A:18-2.3 (1975, c. 219, s. 3).

1 18A:18A-18. Separate plans for various types of work; bids;  
2 contracts. In the preparation of plans and specifications for the  
3 construction, alteration or repair of any building by a \*\*\*[contract-  
4 ing unit]\*\*\* \*\*\**board of education*\*\*\*, when the entire cost of the  
5 work and materials will exceed \$2,500.00, separate plans and  
6 specifications shall be prepared for each of the following, and all  
7 work and materials kindred thereto to be performed or furnished  
7A in connection therewith:

- 8 a. The plumbing and gas fitting work;
- 9 b. The heating and ventilating systems and equipment;
- 10 c. The electrical work, including any electrical power plant;
- 11 d. The structural steel and ornamental iron work;
- 12 e. All other work and materials required for the completion of  
13 the project.

14 The \*\*\*[contracting unit]\*\*\* \*\*\**board of education*\*\*\* or its  
15 contracting agent shall advertise for and receive, in the manner pro-  
16 vided by law, \*\*\*[either]\*\*\* (1) separate bids for each of said  
16A branches of work, \*\*\*[or]\*\*\* \*\*\**and*\*\*\* (2) bids for all the work  
17 and materials required to complete the building to be included in  
18 a single overall contract\*\*\*[, or (3) both]\*\*\*. There will be set  
19 forth in the bid the name or names of, and evidence of performance  
20 security from, all subcontractors to whom the bidder will subcon-  
21 tract the furnishing of plumbing and gas fitting, and all kindred  
22 work, and of the heating and ventilating systems and equipment,  
23 and electrical work, structural steel and ornamental iron work,  
24 each of which subcontractors shall be qualified in accordance with  
25 this chapter.

26 Contracts shall be awarded to the lowest responsible bidder.  
27 \*\*\*[In the event that a contract is advertised in accordance with  
28 (3) above said]\*\*\* \*\*\**The*\*\*\* contract shall be awarded in the  
29 following manner: If the sum total of the amounts bid by the  
30 lowest responsible bidder for each branch is less than the amount  
31 bid by the lowest responsible bidder for all the work and materials,  
32 the \*\*\*[contracting agent]\*\*\* \*\*\**board of education*\*\*\* shall  
33 award separate contracts for each of such branches to the lowest  
34 responsible bidder therefor, but if the sum total of the amount  
35 bid by the lowest responsible bidder for each branch is not  
36 less than the amount bid by the lowest responsible bidder for all

37 the work and materials, the \*\*\*[contracting agent]\*\*\* \*\*\*board of  
 38 education\*\*\* shall award a single overall contract to the lowest  
 39 responsible bidder for all of such work and materials. In every  
 40 case in which a contract is awarded under (2) above, all payments  
 41 required to be made under such contract for work and materials  
 42 supplied by a subcontractor shall, upon the certification of the con-  
 42A tractor of the amount due to the subcontractor, be paid directly to  
 42B the subcontractor.

43 Source: N. J. S. 18A:18-3 amended 1968, c. 107, s. 1; 18A:18-4  
 44 amended 1968, c. 107, s. 2.

1 18A:18A-19. Number of working days specified. All specifica-  
 2 tions for the doing of any work for a \*\*\*[contracting unit]\*\*\*  
 3 \*\*\*board of education\*\*\* shall fix the date before which the work  
 4 shall be completed, or the number of working days to be allowed  
 5 for its completion; and every such contract shall contain a pro-  
 6 vision for a deduction, from the contract price, or any wages paid  
 7 by the \*\*\*[contracting unit]\*\*\* \*\*\*board of education\*\*\* to any  
 8 inspector or inspectors necessarily employed by it on the work, for  
 9 any number of days in excess of the number allowed in the  
 9A specifications.

10 Source: C. 40A:11-17 (1971, c. 198, s. 17).

1 18A:18A-20. American \*\*\*[\*\*and New Jersey\*\*]\*\*\* goods and  
 2 products to be used where possible. Each \*\*\*[contracting unit]\*\*\*  
 3 \*\*\*board of education\*\*\* shall provide, in the specifications for  
 4 all contracts for work for which it will pay any part of the cost,  
 5 that only manufactured and farm products of the United States  
 5A \*\*\*[\*\*and New Jersey\*\*]\*\*\*, wherever available, be used in such  
 5B work.

6 Source: C. 40A:11-18 (1971, c. 198, s. 18).

#### ARTICLE 5. BIDDING

1 18A:18A-21. Advertisements for bids; bids; general require-  
 2 ments. All advertisements for bids shall be published in a Legal  
 3 Newspaper sufficiently in advance of the date fixed for receiving  
 4 the bids to promote competitive bidding, but in no event less than  
 5 10 days prior to such date. The advertisement shall designate the  
 6 manner of submitting and of receiving the bids and the time and  
 7 place at which the bids will be received. If the published specifica-  
 8 tions provide for receipt of bids by mail, those bids which are  
 9 mailed to the \*\*\*[contracting unit]\*\*\* \*\*\*board of education\*\*\*  
 10 shall be sealed and shall be opened only for examination at such  
 11 time and place as all bids received are unsealed and announced. At

12 such time and place the contracting agent of the \*\*\*[contracting  
13 unit]\*\*\* *board of education*\*\*\* shall publicly receive the bids  
13A and thereupon immediately proceed to unseal them and publicly  
14 announce the contents, which announcement shall be made in the  
15 presence of any parties bidding or their agents who are then and  
16 there present. A proper record of the prices and terms shall be  
17 made in the minutes of the board. No bids shall be received after  
18 the time designated in the advertisement.

19 Source: C. 40A:11-23 (1971, c. 198, s. 23).

1 18A:18A-22. Bids to conform to specifications; rejection of bids.  
2 No bid shall be accepted which does not conform to the specifica-  
3 tions furnished therefor. Nothing contained in this chapter shall  
4 be construed as depriving any \*\*\*[contracting unit]\*\*\* *board*  
5 *of education*\*\*\* of the right to reject all bids.

6 Source: N. J. S. 18A:18-13; 18A:18-20.

1 18A:18A-23. Certificate of bidder showing ability to perform  
2 contract. There may be required from any bidder submitting a bid  
3 on public work to any \*\*\*[contracting unit]\*\*\* *board of educa-*  
4 *tion*\*\*\*, duly advertised for in accordance with law, a certificate  
5 showing that he owns, leases, or controls all the necessary equip-  
6 ment required by the plans, specifications and advertisements under  
7 which bids are asked for and if the bidder is not the actual owner  
8 or lessee of any such equipment, his certificate shall state the  
9 source from which the equipment will be obtained, and shall be  
10 accompanied by a certificate from the owner or person in control  
11 of the equipment definitely granting to the bidder the control of  
12 the equipment required during such time as may be necessary for  
13 the completion of that portion of the contract for which it is  
13A necessary.

14 Source: C. 40A:11-20 (1971, c. 198, s. 20).

1 18A:18A-24. Security to accompany bid; amount. There may  
2 be required from any person bidding on any contract or agreement,  
3 advertised in accordance with law, that the bid be accompanied  
4 by a guarantee payable to the \*\*\*[contracting unit]\*\*\* *board*  
5 *of education*\*\*\* that, if the contract or agreement is awarded to  
6 him, he will enter into a contract therefor and will furnish any  
7 performance bond or other security required as a guarantee or in-  
8 demnification. The guarantee shall be in the amount of 10% of the  
9 bid, but not in excess of \$20,000.00, except as otherwise provided  
10 herein, and may be given, at the option of the bidder, by certified  
11 check, cashier's check or bid bond. In the event that any law or  
12 regulation of the United States imposes any condition upon the

13 awarding of a monetary grant to any \*\*\*[contracting unit]\*\*\*  
14 \*\*\*board of education\*\*\*, which condition requires the depositing  
15 of a guarantee in an amount other than 10% of the bid or in excess  
15A of \$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 Source: C. 40A:11-21 (1971, c. 198, s. 21, amended 1974, c. 189, s. 1).

1 18A:18A-25. Guarantee certificate. When a surety company  
2 bond is required in the advertisement or specifications for a con-  
3 tract or agreement, every \*\*\*[contracting unit]\*\*\* \*\*\*board of  
4 education\*\*\* shall require from any bidder submitting a bid in  
5 accordance with plans, specifications and advertisements, as pro-  
6 vided for by law, a certificate from a surety company stating that  
7 it will provide the contractor with a bond in such sum as is re-  
8 quired in the advertisement or in the specifications.

9 This certificate shall be obtained for a bond—

10 a. For the faithful performance of all provisions of the speci-  
11 fications or for all matters which may be contained in the notice  
12 to bidders, relating to the performance of the contract or agree-  
13 ment; including the guarantees required under article 12 of chap-  
14 ter 44 of Title 2A of the New Jersey Statutes; and

15 b. If any be required, for a guarantee bond for the faithful  
16 performance of the contract provisions relating to the repair and  
17 maintenance of any work, project or facility and its appurtenances  
18 and keeping the same in good and serviceable condition during the  
19 term of the bond as provided for in the notice to bidders or in the  
20 specifications; or

21 c. In such other form as may be provided in the notice to bidders  
22 or in the specifications.

23 If a bidder desires to offer the bond of an individual instead of  
24 that of a surety company, he shall submit with his bid a certificate  
25 signed by such individual similar to that required of a surety  
26 company.

27 The \*\*\*[contracting unit]\*\*\* \*\*\*board of education\*\*\* may  
28 reject any such bid if it is not satisfied with the sufficiency of the  
28A individual surety offered.

29 Source: C. 40A:11-22 (1971, c. 198, s. 22).

1 18A:18A-26. Classification of bidders as requisite to bidding.  
2 Every board of education shall require that all persons proposing  
3 to bid on any contract requiring public advertisement for bids with  
4 the board for public work, the entire cost whereof will exceed  
5 \$10,000.00, shall first be classified \*\*\*\*[by the State board]\*\*\*\*

5A \*\*\*\*in accordance with article 6 of this chapter\*\*\*\* as to the  
 6 character and amount of public work on which they shall be quali-  
 7 fied to submit bids. So long as such requirement is in effect, the  
 8 board of education shall accept such bids only from persons quali-  
 9 fied in accordance with such classification.

10 Source: N. J. S. 18A :18-9 amended 1968, c. 188, s. 1.

#### ARTICLE 6. QUALIFICATION OF BIDDERS

1 18A :18A-27. Authority of State Board of Education to adopt  
 2 regulations providing for qualification of bidders. The State Board  
 3 of Education may establish reasonable regulations appropriate  
 4 for controlling the qualifications of prospective bidders upon con-  
 5 tracts \*\*\*\*for public work, the entire cost whereof will exceed  
 6 \$10,000.00,\*\*\*\* \*\*\*\*[to be awarded after public advertising for  
 6A bids]\*\*\*\*, by the amount, class or category of work to be performed  
 7 or materials and supplies to be furnished or hired which may fix the  
 8 qualifications required according to the financial ability and experi-  
 9 ence of the bidders and the capital and equipment available to them  
 10 pertinent to and reasonably related to the class or category of  
 11 work to be performed or materials and supplies to be furnished  
 12 or hired in the performance of any such contract, and may require  
 13 each bidder to furnish a statement thereof.

14 Such regulations shall be written in a manner:

- 15 a. Which will not unnecessarily discourage full, free and open  
 16 competition; or
- 17 b. Which will not unnecessarily restrict the participation of small  
 18 business in the public bidding process; or
- 19 c. Which will not create undue preferences; or
- 20 d. Which will not violate any other provision of this chapter,  
 21 or any other law.

22 No qualification rating of any bidder shall be influenced by his  
 23 race, religion, sex, national origin, nationality or his place of  
 24 residence or residence.

25 \*\*\*\*In lieu of adopting any qualification regulation under this  
 26 section, the State Board may, in whole or in part, delegate by  
 27 regulation to the Department of the Treasury or other appropriate  
 28 State agency with its consent, the authority to qualify bidders  
 29 subject to this article.

30 "Department," as used in this article, shall mean the Depart-  
 31 ment of Education, Department of the Treasury or other State  
 32 agency to which the authority to qualify bidders has been delegated  
 33 by the State Board.\*\*\*\*

34 Such regulations shall not be effective unless they have been  
 35 adopted as provided in the Administrative Procedure Act,  
 36 \*\*\*\*[N. J. S. 52:14B-1 et seq.]\*\*\*\* \*\*\*\*P. L. 1968, c. 410  
 37 (C. 52:14B-1 et seq.)\*\*\*\*.

38 Source: C. 40A:11-25 (1971, c. 198, s. 25).

1 18A:18A-28. Application for classification; fee. Any person  
 2 desiring such classification shall file with the \*\*\*\*[State  
 3 board]\*\*\*\* \*\*\*\*department\*\*\*\* a statement under oath in response  
 4 to a questionnaire, prepared and standardized for like classes of  
 5 work, by the department together with a fee of \$10.00 \*\*\*\*[payable  
 6 to the Commissioner of Education].\*\*\*\* The statement shall  
 7 develop fully the financial ability, adequacy of plant and equipment,  
 8 organization and prior experience of the prospective bidder, and  
 9 also such other pertinent and material facts as may be deemed  
 9A desirable.

10 Source: N. J. S. 18A:18-10 amended 1971, c. 266, s. 3.

1 18A:18A-29. Classification by classes; notice to applicants. The  
 2 \*\*\*\*[State Board of Education]\*\*\*\* \*\*\*\*department\*\*\*\* shall  
 3 classify all such prospective bidders as to the character and amount  
 4 of public work contracts on which they shall be qualified to submit  
 5 bids. \*The \*\*\*\*[State Board of Education]\*\*\*\* \*\*\*\*depart-  
 5A ment\*\*\*\* shall consider reports filed by \*\*\*\*[school]\*\*\*\* boards  
 6 \*\*\*\*of education\*\*\*\* pursuant to 18A:18A-15 as a basis for denial  
 7 of a favorable classification to all prospective bidders.\* The classi-  
 8 fication shall be made and an immediate notice thereof shall be  
 9 sent to the prospective bidder or bidders by registered mail within  
 10 a period of 15 days after the date of receipt of the statement in  
 11 response to the questionnaire; provided, however, that if the  
 11A \*\*\*\*[board]\*\*\*\* \*\*\*\*department\*\*\*\* shall require additional  
 12 information from the prospective bidder, the classification shall  
 13 be made and the notice sent within 15 days after receipt of such  
 14 additional information.

15 Source: N. J. S. 18A:18-11.

1 18A:18A-30. Appeal from determination as to classification;  
 2 hearings; change\*\*\*\*[; approval by State board].\*\*\*\* Any person,  
 3 after being notified of his classification, being dissatisfied therewith  
 4 or with the classification of another person or persons, may request  
 5 in writing a hearing before the \*\*\*\*[commissioner]\*\*\*\*  
 6 \*\*\*\*department\*\*\*\*, and may present such further evidence with  
 7 respect to his financial ability, plant and equipment or prior experi-  
 8 ence, or that of the other person or persons, as might tend to  
 8A justify a different classification.

9 Where the request for a hearing is related to the classification  
 10 of another person, the applicant for the hearing shall notify  
 11 such other person, by registered mail, of the time and place of  
 12 hearing and at the hearing shall present to the \*\*\*\*[commis-  
 13 sioner]\*\*\*\* \*\*\*\**department*\*\*\*\* satisfactory evidence that such  
 14 notice was given before any matters pertaining to the classification  
 15 of such other person shall be taken up.

16 After the hearing the \*\*\*\*[commissioner]\*\*\*\* \*\*\*\**depart-*  
 17 *ment*\*\*\*\* may change or affirm the classification or classifications,  
 18 the subject of the hearing.

19 \*\*\*\*[Decisions of the commissioner, made after hearing, shall be  
 19A subject to appeal to the State board.]\*\*\*\*

20 Source: N. J. S. 18A:18-12.

1 18A:18A-31. Change in classification as affecting bids; review  
 2 and reconsideration of classification. Where there have been de-  
 3 velopments subsequent to the qualification and classification of a  
 4 bidder which in the opinion of the \*\*\*[contracting unit]\*\*\*  
 5 \*\*\**board of education*\*\*\* would affect the responsibility of the  
 6 bidder, information to that effect shall forthwith be transmitted to  
 7 the \*\*\*\*[State Board of Education]\*\*\*\* \*\*\*\**department*\*\*\*\* for  
 8 its review and reconsideration of the classification. Before taking  
 9 final action on any such bid, the \*\*\*[contracting unit]\*\*\* \*\*\**board*  
 10 *of education*\*\*\* concerned shall notify the bidder and give him an  
 11 opportunity to present to the \*\*\*\*[State Board of Education]\*\*\*\*  
 12 \*\*\*\**department*\*\*\*\* any additional information which might tend  
 13 to substantiate the existing classification.

14 Source: N. J. S. 18A:18-13.

1 18A:18A-32. Bidders not submitting statements, within 6 months  
 2 ineligible to bid; affidavit of no change in status to accompany bid;  
 3 reports as to performance, etc. No person shall be qualified to bid  
 4 on any \*\*\*\**public work*\*\*\*\* contract with the \*\*\*[contracting  
 5 unit]\*\*\* \*\*\**board of education*\*\*\*, the entire cost whereof will  
 6 exceed \$10,000.00, who shall not have submitted a statement as  
 7 required by N. J. S. 18A:18A-28 within a period of 6 months pre-  
 8 ceding the date of opening of bids for such contract. Every bidder  
 9 shall submit with his bid an affidavit that subsequent to the latest  
 10 such statement submitted by him there has been no material  
 11 adverse change in his qualification information except as set forth  
 11A in said affidavit.

12 Source: N. J. S. 18A:18-14 amended 1968, c. 188, s. 2.

1 18A:18A-33. Penalties for false statements. Any person who  
 2 makes, or causes to be made, a false, deceptive or fraudulent

3 statement in the questionnaire required to be submitted, or in the  
 4 course of any hearing under this article shall be guilty of a mis-  
 5 demeanor, and upon conviction shall be sentenced to pay a fine  
 6 of not less than \$100.00 nor more than \$1,000.00; or, in the case  
 7 of an individual or the officer or employee charged with the duty  
 8 of making such questionnaire for a person, firm, copartnership,  
 9 association or corporation, to pay such fine or undergo imprison-  
 10 ment, not exceeding 6 months, or both. All such persons and any  
 11 copartnership, association, corporation or joint stock company of  
 12 which any such person is a partner or officer or director, and any  
 13 corporation of which he owns more than 25% of the stock, shall for  
 14 5 years from the date of such conviction be disqualified from bidding  
 15 on all public work in this State.

16 The **\*\*\*[contracting unit]\*\*\*** *\*\*\*board of education\*\*\** shall  
 17 cause the forfeiture as liquidated damages to the board of any  
 18 certified check or certificate of deposit deposited as bid security by  
 19 any person who makes or causes to be made any false, deceptive or  
 20 fraudulent statement in the questionnaire or bid affidavit required  
 21 to be submitted, or in the course of any hearing under this chapter.  
 22 Source: N. J. S. 18A :18-15, 18A :18-16.

#### ARTICLE 7. RESERVED

1 18A :18A-34. Blank.

1 18A :18A-35. Blank.

#### ARTICLE 8. AWARDING CONTRACTS

1 18A :18A-36. Time for making awards, deposits returned.

2 **\*\*[a.** All bid security, except the security of the three lowest  
 3 bidders, shall be returned within 10 days after the opening of the  
 4 bids, Sundays and holidays excepted, provided however, at the  
 5 request of any other bidder his bid security may be retained for  
 6 consideration by the contracting unit until the awarding of the con-  
 7 tract or the rejection of all bids.

8 b. The contracting unit shall award the contract or reject all bids  
 9 within the time specified in the invitation to bid unless a longer  
 10 period not in excess of 60 days is consented to by the bidder, pro-  
 11 vides however, any bidder not consenting thereto shall be con-  
 12 sidered as having withdrawn his bid and shall be entitled to have his  
 13 bid security returned forthwith by the contracting unit.

14 c. Within 3 days after the awarding of the contract and the  
 15 approval of the contractor's performance bond, the bid security of  
 16 the remaining unsuccessful bidders shall be returned to them, Sun-  
 17 days and holidays excepted.]\*\*

18 \*\*\***[\*\*a. Every contract shall be awarded or all bids therefor re-**  
 19 *jected within 60 days after the opening of bids except where the*  
 20 *invitation to bid states that the execution of the contract shall be*  
 21 *subject to prior approval or disapproval by a Federal or State*  
 22 *agency or department, in which event the contract shall be awarded*  
 23 *or all bids therefor rejected within 5 days after the approval or dis-*  
 24 *approval by such Federal or State agency or department. All*  
 25 *security delivered with the bids, except the check or bond of the*  
 26 *bidder to whom the contract is awarded, shall be returned within 3*  
 27 *days thereafter, Sundays and holidays excepted. The check or bond*  
 28 *of the bidder to whom the contract is awarded shall be retained*  
 29 *until a contract is executed and any required performance bond or*  
 30 *other security is submitted.]\*\*\**

31 \*\*\***[b. The contracting unit]**\*\*\* *\*\*\*The board of education\*\*\**  
 32 *shall award the contract or reject all bids within such time as may*  
 33 *be specified in the invitation to bid, but in no case more than 60*  
 34 *days, except that the bids of any bidders who consent thereto may,*  
 35 *at the request of the \*\*\*[contracting unit]\*\*\* \*\*\*board of educa-*  
 36 *tion\*\*\*, be held for consideration for such longer period as may be*  
 37 *agreed. All bid security except the security of the three apparent*  
 38 *lowest responsible bidders shall, if requested, be returned after 10*  
 39 *days from the opening of the bids, Sundays and holidays excepted*  
 40 *and the bids of such bidders shall be considered as withdrawn.*  
 41 *Within 3 days after the awarding of the contract and the approval*  
 42 *of the contractor's performance bond the bid security of the re-*  
 43 *maining unsuccessful bidders shall be returned to them forthwith,*  
 43A *Sundays and holidays excepted.\*\**

44 Source: C. 40A:11-24 (1971, c. 198, s. 24).

1 18A:18A-37. **\*\*[Contracts to be awarded to lowest responsible**  
 2 bidder. a. Contracts and agreements requiring public advertising  
 3 for bids shall be awarded to the lowest responsible bidder.

4 b. All contracts, other than those requiring the performance of  
 5 professional services, where the estimated cost or price is more  
 6 than \$500.00, but less than \$2,500.00, shall, wherever practical be  
 7 made with and awarded to the lowest responsible bidder among at  
 8 least three solicited by the contracting agent.

9 Source: New.]\*\* **\*\*\*[\*\*Blank\*\*]\*\*\***

10 **\*\*\*\*[\*\*\*Contracts to be awarded to the lowest responsible**  
 11 *bidder; quotations solicited for unadvertised contracts.*

12 a. *Contracts and agreements requiring public advertising for*  
 13 *bids shall be awarded to the lowest responsible bidder.*

14 b. *Except contracts which require the performance of profes-*  
 15 *sional services, in the case of all contracts or agreements which do*

16 *not require public advertising for bids and the estimated cost or*  
 17 *price exceeds \$500.00, at least three quotations as to the cost or*  
 18 *price wherever practicable, shall be solicited by the contracting*  
 19 *agent and the contract or agreement shall be made with and*  
 20 *awarded to the lowest responsible bidder.】\*\*\*\**

21 *\*\*\*\*Award of purchases, contracts or agreements.*

22 *All purchases, contracts or agreements which require public*  
 23 *advertisement for bids shall be awarded to the lowest responsible*  
 24 *bidder.*

25 *Prior to the award of any other purchase, contract or agreement,*  
 26 *the contracting agent shall, except in the case of the performance*  
 27 *of professional services, solicit quotations, whenever practicable,*  
 28 *on any such purchase, contract or agreement the estimated cost or*  
 29 *price of which is \$500.00 or more, and the award thereof shall be*  
 30 *made, in accordance with N. J. S. 18A:18A-3 or N. J. S. 18A:18A-4,*  
 31 *as the case may be, on the basis of the lowest responsible quotation*  
 32 *received, which quotation is most advantageous to the board of*  
 33 *education, price and other factors considered; provided, however,*  
 34 *that if the contracting agent deems it impractical to solicit competi-*  
 35 *tive quotations in the case of extraordinary, unspecifiable service*  
 36 *\*\*\*\*【or product】\*\*\*\*, or, in the case of such or any other pur-*  
 37 *chase, contract or agreement awarded hereunder, having sought*  
 38 *such quotations determines that it should not be awarded on the*  
 39 *basis of the lowest quotation received, the contracting agent shall*  
 40 *file a statement of explanation of the reason or reasons therefor,*  
 41 *which shall be placed on file with said purchase, contract or*  
 41A *agreement.\*\*\*\**

42 *Source: New.\*\*\**

1 18A:18A-38. Award of contracts when bids are equal. Whenever  
 2 two or more proposals or bids of equal amounts are the lowest  
 3 proposals or bids submitted by responsible bidders, the \*\*\*【con-  
 4 tracting unit】\*\*\* \*\*\*board of education\*\*\* may award the con-  
 5 tract to any one of such bidders as, in its discretion, it may deter-  
 5A mine.

6 Source: N. J. S. 18A:18-21.

1 18A:18A-39. Filing copies of contracts. A copy of each contract  
 2 \*\*\*\*, the entire cost of which exceeds \$10,000.00,\*\*\*\* for the per-  
 3 formance of any work or for the furnishing of services, materials  
 3A or supplies for the construction, alteration or repair of any  
 4 building shall be filed with the State board within 10 days after  
 5 the same shall have been signed.

6 Source: N. J. S. 18A:18-22.

## ARTICLE 9. FORM OF CONTRACTS AND BONDS

1 18A:18A-40. Form and execution of contracts and bonds. All  
 2 contracts for the performing of work or furnishing materials, sup-  
 3 plies or services shall be in writing. The State Board of Education  
 4 may, subject to the requirements of law, prescribe the forms and  
 5 manner in which contracts shall be made and executed, and the  
 6 form and manner of execution and approval of all guarantee, in-  
 7 demnity, fidelity and other bonds.

8 Source: C. 40A:11-14 (1971, c. 198, s. 14).

1 18A:18A-41. Liquidated damages. Any contract or agreement  
 2 made pursuant to this chapter 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 chap-  
 6 ter.

7 Source: C. 40A:11-19 (1971, c. 198, s. 19).

## ARTICLE 10. CONTRACTS EXTENDING BEYOND THE FISCAL YEAR

1 18A:18A-42. Duration of certain contracts. Any \*\*\*[contract-  
 2 ing unit]\*\*\* *board of education*\*\*\* may enter into a contract  
 2A exceeding the fiscal year for the

3 a. Supplying of:

4 (1) Fuel for heating purposes, for any term not exceeding in  
 5 the aggregate, \*\*\*[2]\*\*\* *3*\*\*\* years; or

6 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles  
 7 or equipment for any term not exceeding in the aggregate,  
 8 \*\*\*[2]\*\*\* *3*\*\*\* years;

8A or

9 b. The plowing and removal of snow and ice for any term not  
 10 exceeding in the aggregate, \*\*\*[1 year]\*\*\* *3 years*\*\*\*; or

11 c. The collection and disposal of garbage and refuse, for any  
 12 term not exceeding in the aggregate, \*\*\*[5]\*\*\* *3*\*\*\* years; or

13 d. Data processing service, for any term of not more than  
 14 \*\*\*[3]\*\*\* *5*\*\*\* years; or

15 e. Insurance, for any term of not more than 3 years; or

16 f. Leasing or servicing of automobiles, motor vehicles, *elec-*  
 17 *tronic communications equipment*,\*\* machinery and equipment of  
 18 every nature and kind, for \*\*\*[a period of 1 year with options by  
 19 the contracting unit to renew such lease for further periods of 1  
 20 year, but in the aggregate not to exceed]\*\*\* *any term not ex-*  
 21 *ceeding the aggregate*\*\*\* *3*\*\*\* *5*\*\*\* years; provided,

21A however, such contracts shall be entered into only subject to and in

22 accordance with rules and regulations promulgated by the State  
22A Board of Education;

23 g. The supplying of any product or the rendering of any service  
24 by a telephone company which is subject to the jurisdiction of the  
25 Board of Public Utility Commissioners for a term not exceeding  
26 5 years.

27 All multiyear leases and contracts entered into pursuant to this  
28 section 18A:18A-42 except contracts for the leasing or servicing of  
29 equipment supplied by a telephone company which is subject to the  
30 jurisdiction of the Board of Public Utility Commissioners shall  
31 contain a clause making them subject to the availability and appro-  
32 priation annually of sufficient funds as may be required to meet the  
33 extended obligation, or contain an annual cancellation clause.

34 Source: C. 40A:11-15 (1971, c. 198, s. 15).

#### ARTICLE 11. SUPERVISION, INSPECTION, CONDEMNATION, REJECTION

1 18A:18A-43. Supervision of school building repairs. Repairs  
2 of all school buildings shall be supervised by the business manager  
3 of the district, if there be one, as provided by N. J. S. 18A:17-28,  
4 but if the district has no business manager, the board may delegate  
5 such power to any appropriate officer of the board as provided by  
6 N. J. S. 18A:16-1.2.

7 Source: N. J. S. 18A:18-23.

1 18A:18A-44. Inspection, condemnation and rejection of work  
2 and materials. All work done and materials or supplies furnished  
3 under contract shall be inspected by the business manager of the  
4 district, if there be a business manager of the district, but if there  
5 be no business manager of the district, they may be inspected by  
6 an appropriate officer employed by the board to whom such power  
7 shall have been delegated by the board, and subject to the approval  
8 of the board the business manager or such officer, as the case may  
9 be, shall condemn any work and reject any material or supplies,  
10 which in his judgment do not conform to the specifications of the  
11 contract therefor.

12 Source: N. J. S. 18A:18-24.

#### ARTICLE 12. SALE OF PERSONAL PROPERTY

1 18A:18A-45. Manner and method of sale. Any \*\*\*[contracting  
2 unit]\*\*\* \*\*\*board of education\*\*\* may, by resolution, authorize  
3 the sale of its personal property not needed for school purposes.

4 a. If the estimated fair value of the property to be sold exceeds  
5 \$2,500.00 in any one sale and it is neither livestock nor perishable  
6 goods, it shall be sold at public sale to the 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  
9 sale, shall be published once in a legal newspaper. Such sale shall  
10 be held not less than seven nor more than 14 days after the publi-  
11 cation of the notice thereof.

12 c. Personal property may be sold to the United States, the  
13 State of New Jersey, another \*\*\*[contracting unit]\*\*\* \*\*\*board of  
14 education\*\*\* or to any body politic by private sale without advertis-  
14A ing 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 \*\*\*[con-  
18 tracting unit]\*\*\* \*\*\*board of education\*\*\* may if it so elect re-  
19 offer the property at public sale. As used herein, "estimated fair  
20 value" means the market value of the property between a willing  
21 seller and a willing buyer less the cost to the \*\*\*[contracting  
22 unit]\*\*\* \*\*\*board of education\*\*\* to continue storage or mainte-  
23 nance of any personal property not needed for school purposes to  
23A be sold pursuant to this section.

24 e. A \*\*\*[contracting unit]\*\*\* \*\*\*board of education\*\*\* may  
25 reject all bids if it determine such rejection to be in the public  
26 interest. In any case in which the \*\*\*[contracting unit]\*\*\*  
27 \*\*\*board of education\*\*\* has rejected all bids, it may readvertise  
27A such personal property for a subsequent public sale. If it elects to  
28 reject all bids at a second public sale, pursuant to this section, it  
29 may then sell such personal property without further publication  
30 or notice thereof at private sale, provided that in no event shall  
31 the negotiated price at private sale be less than the highest price  
32 of any bid rejected at the preceding two public sales and provided  
33 further that in no event shall the terms or conditions of sale be  
34 changed or amended.

35 f. If the estimated fair value of the property to be sold does not  
36 exceed \$2,500.00 in any one sale or is either livestock or perishable  
37 goods, it may be sold at private sale without advertising for bids.  
38 Source: C. 40A :11-36 (1971, c. 198, s. 36).

#### ARTICLE 13. MISCELLANEOUS

1 18A:18A-46. No action for damages for action by officials. No  
2 action for damages shall lie against the State board, any State  
3 official, or any \*\*\*[district]\*\*\* board \*\*\*of education\*\*\* or any of  
4 its officers because of any action taken by virtue of the provisoin of  
4A this chapter.

5 Source: N. J. S. 18A :18-18 amended 1968, c. 342.

1 18A:18A-47. Indemnity agreement with the United States, etc.  
 2 Any \*\*\*[contracting unit]\*\*\* \*\*\*board of education\*\*\* may enter  
 3 into an agreement indemnifying the United States of America, or  
 4 any board, body, officer or agency thereof, from loss or damage to  
 5 the property of others resulting from the furtherance of any project,  
 6 undertaken or to be undertaken by the Federal Government for the  
 7 benefit of such \*\*\*[contractng unit]\*\*\* \*\*\*board of education\*\*\*  
 8 where the cost or any part thereof is to be paid out of Federal  
 8A funds.

9 Source: C. 40A:11-35 (1971, c. 198, s. 35).

1 18A:18A-48. Contracts, etc.; validated and confirmed. Any  
 2 action, purchase, sale, contract or agreement taken, made or  
 3 entered into prior to the effective date of this chapter pursuant to  
 4 any of the acts, amendments and supplements repealed by this  
 5 chapter are hereby validated and confirmed, provided that in no  
 6 event shall a lease of personal property entered into prior to the  
 7 effective date of this chapter be renewed or extended, except in  
 8 accordance with the terms and provisions of this chapter.

9 Source: New.

1 18A:18A-49. No municipal permit required for school building  
 2 No board of education of any school district shall be required to  
 3 secure the approval of its plans and specifications for the erection  
 4 or alteration of any school building or vocational school building  
 5 or any part thereof by the municipality in which the building is  
 6 located; nor shall any board of education or any board of education  
 7 of a county vocational school or any contractor doing work in  
 8 connection with school buildings or county vocational school build-  
 9 ings be required to secure a building permit from the municipality.

10 Source: N. J. S. 18A:18-25.

1 *\*\*\*18A:18A-49.1. Transportation of pupils to and from schools.*  
 2 *The provisions of this chapter shall not apply to contracts for*  
 3 *the transportation of pupils to and from school, which contracts are*  
 4 *regulated by Chapter 39 of this Title.*

5 *Source: New.\*\*\**

#### ARTICLE 14. REPEALER

1 18A:18A-50. Statutes repealed. The following sections, chap-  
 2 ters and acts, together with all amendments and supplements  
 3 thereto, are hereby repealed:

4 Chapter 18 of Title 18A of the New Jersey Statutes;

5 Laws of 1969, c. 104, s. 2 (C. 18A:18-1.6);

6 Laws of 1971, c. 42 (C. 18A:18-2.1; C. 18A:18-2.2).

1 2. Effective date. This act shall take effect immediately.

PUBLIC SCHOOL CONTRACTS LAW  
SCHEDULE OF ALLOCATIONS OF SOURCE MATERIALS

Source Sections	Revised Sections
1 N. J. S. 18A:18-1	Not Enacted
2 N. J. S. 18A:18-1.1 As am. L. 1968, c. 422, s. 8	18A:18A-11
3 N. J. S. 18A:18-1.2	18A:18A-12
4 N. J. S. 18A:18-1.3	18A:18A-13
5 N. J. S. 18A:18-1.4	18A:18A-12
6 N. J. S. 18A:18-1.5 As am. L. 1968, c. 422, s. 9	18A:18A-14
7 C. 18A:18-1.6 L. 1969, c. 104, s. 2	18A:18A-10
8 N. J. S. 18A:18-2	18A:18A-16
9 C. 18A:18-2.1 L. 1971, c. 42, s. 1	18A:18A-2
10 C. 18A:18-2.2 L. 1971, c. 42, s. 2	18A:18A-17
10A As am. L. 1975, c. 219, s. 1	18A:18A-17
10B C. 18A:18-2.3 L. 1975, c. 219, s. 3	18A:18A-17.1
11 N. J. S. 18A:18-3 As am. L. 1968, c. 107, s. 1	18A:18A-18
12 N. J. S. 18A:18-4 As am. L. 1968, c. 107, s. 2	18A:18A-18
13 N. J. S. 18A:18-4.1	Not Enacted
14 N. J. S. 18A:18-5	{18A:18A-5 }18A:18A-9
15 N. J. S. 18A:18-5.1 As am. L. 1971, c. 284	18A:18A-6
16 N. J. S. 18A:18-6	Not Enacted
17 N. J. S. 18A:18-7	Not Enacted
18 N. J. S. 18A:18-8	18A:18A-2
19 N. J. S. 18A:18-9 As am. L. 1968, c. 188, s. 1	18A:18A-26
20 N. J. S. 18A:18-10 As am. L. 1971, c. 266, s. 3	18A:18A-28
21 N. J. S. 18A:18-11	18A:18A-29
22 N. J. S. 18A:18-12	18A:18A-30
23 N. J. S. 18A:18-13	{18A:18A-22 }18A:18A-31
24 N. J. S. 18A:18-14 As am. L. 1968, c. 188, s. 2	{18A:18A-15 }18A:18A-32
25 N. J. S. 18A:18-15	18A:18A-33
26 N. J. S. 18A:18-16	18A:18A-33
27 N. J. S. 18A:18-17	Not Enacted
28 N. J. S. 18A:18-18 As am. L. 1968, c. 342	18A:18A-46
29 N. J. S. 18A:18-19	Not Enacted
30 N. J. S. 18A:18-20	18A:18A-22
31 N. J. S. 18A:18-21	18A:18A-38
32 N. J. S. 18A:18-22	18A:18A-39
33 N. J. S. 18A:18-23	18A:18A-43
34 N. J. S. 18A:18-24	18A:18A-44
35 N. J. S. 18A:18-25	18A:18A-49

Source Sections		Revised Sections
36	C. 40A :11-3 L. 1971, c. 198, s. 3	18A :18A-3
37	C. 40A :11-4 L. 1971, c. 198, s. 4	18A :18A-4
38	C. 40A :11-6 L. 1971, c. 198, s. 6	18A :18A-7
39	C. 40A :11-7 L. 1971, c. 198, s. 7	18A :18A-8
40	C. 40A :11-14 L. 1971, c. 198, s. 14	18A :18A-40
41	C. 40A :11-15 L. 1971, c. 198, c. 15	18A :18A-42
42	C. 40A :11-17 L. 1971, c. 198, s. 17	18A :18A-19
43	C. 40A :11-18 L. 1971, c. 198, s. 18	18A :18A-20
44	C. 40A :11-19 L. 1971, c. 198, s. 19	18A :18A-41
45	C. 40A :11-20 L. 1971, c. 198, c. 20	18A :18A-23
46	C. 40A :11-21 L. 1971, c. 198, s. 21	} 18A :18A-24
47	As am. L. 1974, c. 189, s. 1	
48	C. 40A :11-22 L. 1971, c. 198, s. 22	18A :18A-25
49	C. 40A :11-23 L. 1971, c. 198, s. 23	18A :18A-21
50	C. 40A :11-24 L. 1971, c. 198, s. 24	18A :18A-36
51	C. 40A :11-25 L. 1971, c. 198, s. 25	18A :18A-27
52	C. 40A :11-35 L. 1971, c. 198, s. 35	18A :18A-47
53	C. 40A :11-36 L. 1971, c. 198, s. 36	18A :18A-45
54	New	18A :18A-1
55	New	18A :18A-34
56	New	18A :18A-35
57	New	18A :18A-37
58	New	18A :18A-48

PUBLIC SCHOOL CONTRACTS LAW  
TREATMENT OF SOURCE MATERIAL

Revised Section	Source	Treatment of Source
1 18A :18A-1		New; short title
2 18A :18A-2	C. 18A :18-2.1	
3	N. J. S. 18A :18-8	Source sections consolidated;
4		revised to conform with
5		“Local Public Contracts
6		Law”
7 18A :18A-3	C. 40A :11-3	Revised section adapted from
8		source to conform with
9		“Local Public Contracts
10		Law”
11 18A :18A-4	C. 40A :11-4	Revised section adapted from
12		source to conform with
13		“Local Public Contracts
14		Law”

	Revised Section	Source	Treatment of Source
15	18A:18A-5	N. J. S. 18A:18-5	Source section has been re- vised to conform with "Local Public Contracts Law"
16			
17			
18			
19	18A:18A-6	N. J. S. 18A:18-5.1	No change
20	18A:18A-7	C. 40A:11-6	Revised section adapted from source to conform with "Local Public Contracts Law"
21			
22			
23			
24	18A:18A-8	C. 40A:11-6	Revised section adapted from source to conform with "Local Public Contracts Law"
25			
26			
27			
28	18A:18A-9	N. J. S. 18A:18-5	Source section has been re- vised to conform with "Local Public Contracts Law"
29			
30			
31			
32	18A:18A-10	C. 18A:18-1.6	Editorial
33	18A:18A-11	N. J. S. 18A:18-1.1	Editorial
34	18A:18A-12	N. J. S. 18A:18-1.2	Source sections consolidated
35		N. J. S. 18A:18-1.4	
36	18A:18A-13	N. J. S. 18A:18-1.3	No change
37	18A:18A-14	N. J. S. 18A:18-1.5	No change
38	18A:18A-15	N. J. S. 18A:18-14	Source section divided; re- vised to conform with "Local Public Contracts Law"
39			
40			
41			
42	18A:18A-16	N. J. S. 18A:18-2	Editorial
43	18A:18A-17	C. 18A:18-2.2	Editorial
43A	18A:18A-17.1	C. 18A:18-2.3	Editorial
44	18A:18A-18	N. J. S. 18A:18-3	Source sections consolidated; revised to conform with "Local Public Contracts Law"
45		N. J. S. 18A:18-4	
46			
47			
48	18A:18A-19	C. 40A:11-17	Revised section adapted from source to conform with "Local Public Contracts Law"
49			
50			
51			

	Revised Section	Source	Treatment of Source
52	18A:18A-20	C. 40A:11-18	Revised section adapted from source to conform with "Local Public Contracts Law"
53			
54			
55			
56	18A:18A-21	C. 40A:11-23	Revised section adapted from source to conform with "Local Public Contracts Law"
57			
58			
59			
60	18A:18A-22	N. J. S. 18A:18-13	Source sections consolidated; editorial
61		N. J. S. 18A:18-20	
62	18A:18A-23	C. 40A:11-20	Revised section adapted from source to conform with "Local Public Contracts Law"
63			
64			
65			
66	18A:18A-24	C. 40A:11-21	Revised section adapted from source to conform with "Local Public Contracts Law"
67			
68			
69			
70	18A:18A-25	C. 40A:11-22	Revised section adapted from source to conform with "Local Public Contracts Law"
71			
72			
73			
74	18A:18A-26	N. J. S. 18A:18-9	No change
75	18A:18A-27	C. 40A:11-25	Revised section adapted from source to conform with "Local Public Contracts Law"
76			
77			
78			
79	18A:18A-28	N. J. S. 18A:18-10	No change
80	18A:18A-29	N. J. S. 18A:18-11	Editorial
81	18A:18A-30	N. J. S. 18A:18-12	No change
82	18A:18A-31	N. J. S. 18A:18-13	Editorial
83	18A:18A-32	N. J. S. 18A:18-14	Source section divided; editorial
84			
85	18A:18A-33	N. J. S. 18A:18-15	Source sections consolidated; editorial
86		N. J. S. 18A:18-16	
87-89	18A:18A-34	Blank	
90-91	18A:18A-35	Blank	
92	18A:18A-36	C. 40A:11-24	Revised section adapted from source to conform with "Local Public Contracts Law"
93			
94			
95			

Revised Section	Source	Treatment of Source
96 18A:18A-37		**[New; contracts are to be awarded to the lowest responsible bidder]**
97		
98		
98A		***[**Blank**]*** <i>***New;</i>
98B		<i>contracts are to be awarded</i>
98C		<i>to the lowest responsible</i>
98D		<i>bidder; quotations solicited</i>
98E		<i>for unadvertised con-</i>
98F		<i>tracts***</i>
99 18A:18A-38	N. J. S. 18A:18-21	Editorial
100 18A:18A-39	N. J. S. 18A:18-22	Editorial
101 18A:18A-40	C. 40A:11-14	Revised section adapted from
102		source to conform with
103		“Local Public Contracts
104		Law”
105 18A:18A-41	C. 40A:11-19	Revised section adapted from
106		source to conform with
107		“Local Public Contracts
108		Law”
109 18A:18A-42	C. 40A:11-15	Revised section adapted from
110		source to conform with
111		“Local Public Contracts
112		Law”
113 18A:18A-43	N. J. S. 18A:18-23	Editorial
114 18A:18A-44	N. J. S. 18A:18-24	No change
115 18A:18A-45	C. 40A:11-36	Revised section adapted from
116		source to conform with
117		“Local Public Contracts
118		Law”
119 18A:18A-46	N. J. S. 18A:18-18	Editorial
120 18A:18A-47	C. 40A:11-35	Revised section adapted from
121		source to conform with
122		“Local Public Contracts
123		Law”
124 18A:18A-48		New; validating section
125 18A:18A-49	N. J. S. 18A:18-25	Editorial
125A ****18A:18A-49.1	<i>New</i>	<i>Excepts contracts for trans-</i>
		<i>portation of pupils to and</i>
		<i>from school****</i>
126 18A:18A-50		Repealer

Revised Section	Source	Treatment of Source
101 18A:18A-40	C. 40A:11-14	Revised section adapted from
102		source to conform with
103		“Local Public Contracts
104		Law”
105 18A:18A-41	C. 40A:11-19	Revised section adapted from
106		source to conform with
107		“Local Public Contracts
108		Law”
109 18A:18A-42	C. 40A:11-15	Revised section adapted from
110		source to conform with
111		“Local Public Contracts
112		Law”
113 18A:18A-43	N. J. S. 18A:18-23	Editorial
114 18A:18A-44	N. J. S. 18A:18-24	No change
115 18A:18A-45	C. 40A:11-36	Revised section adapted from
116		source to conform with
117		“Local Public Contracts
118		Law”
119 18A:18A-46	N. J. S. 18A:18-18	Editorial
120 18A:18A-47	C. 40A:11-35	Revised section adapted from
121		source to conform with
122		“Local Public Contracts
123		Law”
124 18A:18A-48		New; validating section
125 18A:18A-49	N. J. S. 18A:18-25	Editorial
126 18A:18A-50		Repealer

### *Sponsors* STATEMENT

This is a revision of chapter 18 of Title 18A of the New Jersey Statutes which has been drafted by the Division of Law Revision in the Legislative Services Agency. The State Board of Education and the Association of New Jersey School Boards have been consulted.

The purpose of this revision is to conform the law relating to the awarding of contracts by local school boards with the Local Public Contracts Law. If enacted, it will accomplish uniformity in public contract law. It will also rectify some of the more recurrent and serious problems that exist under the present law which have been raised by local school board officials.

The provisions of this revision will provide a new legislative scheme for the entering into contracts calling for the expenditure of school funds and extensively revise the existing law.

This bill includes a definition section which will assist school board officials in the administration of its provisions.

It is proposed to raise the amount from \$1,000.00 to \$2,500.00 for contracts which may be made without public advertising for bids and bidding. Where the cost of the contract will exceed \$2,500.00, advertising for bids and bidding therefor will be required except in those cases otherwise specifically excepted.

The present law includes certain items which may be purchased without public advertising even though the price exceeds the limit set. This revision in 18A:18A-5 adds to the list of exempt contracts those which would cover professional services, certain extraordinary unspecifiable services; contracts entered into with the United States, State of New Jersey or any county or municipality, and generally conforms with the exemptions in the "Local Public Contracts Law."

The existing law does not make any provision for the awarding of contracts when an emergency exists. This revision will authorize the awarding of contracts without public advertising for bids when an emergency exists affecting the health or safety of occupants of school property requiring immediate delivery of materials and supplies or the performance of work although the cost or price exceeds \$2,500.00. This bill sets out the manner in which such contracts may be awarded, and provides that the State Board of Education may prescribe additional rules and procedures to implement the requirements for the awarding of such contracts.

The State Board of Education is also authorized to establish reasonable regulations controlling the qualifications of prospective bidders.

All contracts which require public bidding shall be awarded to the lowest responsible bidder. All contracts, other than those requiring the performance of professional services, where the estimated cost or price is more than \$500.00, but less than \$2,500.00, shall, wherever practical, be made with and awarded to the lowest responsible bidder among at least three solicited by the contracting agent.

The existing law is silent as to whether or not contracts for the performance of work or furnishing of materials and supplies shall be in writing. The absence of such a provision has resulted in confusion. Under this revision it is expressly provided that all contracts for the performing of work or furnishing of materials and supplies shall be in writing.

Provision is also made in this revision to include liquidated damages in a contract for the violation of any of its terms and conditions or the failure to perform the contract in accordance with its terms and conditions or the terms and conditions of the chapter as revised.

This revision will supplement the existing law to permit boards of education to enter into certain contracts which exceed the fiscal year of the local board. Contracts for the supplying of fuel for heating purposes or for the use of automobiles, autobuses, motor vehicles or equipment may be entered into for a term not exceeding 2 years. Contracts for the collection and disposal of garbage may be entered into for a term not exceeding 5 years. Contracts relating to data processing service, insurance, and leasing may be entered into for terms not exceeding 3 years.

There is presently no express authority for the manner in which school boards shall sell personal property no longer needed for school purposes. This revision will permit a school board to sell personal property no longer needed for school purposes and establishes the manner in which such sales shall be made.

A school board will also be authorized to enter into indemnification agreements with the United States of America or any agency thereof for loss or damage resulting from the furtherance of any project undertaken by the Federal Government for the benefit of the school board where the cost or any part thereof is to be paid out of Federal funds.

The following sections of the existing law, N. J. S. 18:18-1, 18:18-4.1, 18A:18-6, 18A:18-7, 18A:18-17 and 18A:18-19 will not be reenacted as their provisions are replaced by sections of this revision.

All other sections of the existing law are incorporated in this revision. There have been some additional changes in the sections but their general substantive provisions have not been changed.

FISCAL NOTE TO  
**ASSEMBLY, No. 807**

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**STATE OF NEW JERSEY**

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DATED: MAY 18, 1976

The Second Official Copy Reprint of Assembly Bill No. 807, designated the "Public School Contracts Law," conforms the law relating to the awarding of contracts by local school boards with the Local Public Contracts Law.

The Department of Education sees no reason why enactment of this legislation would generate any cost increases and observes that this revision of contracts law is to a great extent a codification of present practice pursuant to the Public Contracts Law. It eliminates present inconsistency in Title 18A of the New Jersey Statutes.

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In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 807

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**STATE OF NEW JERSEY**

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DATED: FEBRUARY 19, 1976

PROVISIONS OF THE BILL:

This bill is a revision of chapter 18 of Title 18A of the New Jersey Statutes which has been drafted by the Division of Law Revision in the Legislative Services Agency. The State Board of Education and the Association of New Jersey School Boards have been consulted. It is a companion bill to Senate Bill 3090 which amends and supplements the existing "Local Public Contracts Law."

PURPOSE:

The purpose of this revision is to conform the law relating to awarding contracts by local school boards with the Local Public Contracts Law. If enacted, it will accomplish uniformity in public contracts law. It will rectify some of the more recurrent and serious problems that exist under the present law which have been raised by local school board officials. (See bill statement for a summary of the provisions.)

HISTORY OF THE PROPOSED LEGISLATION:

A 807 and its companion, S 3090 were drafted with two considerations in mind:

- (1) To establish as much consistency as possible between the Statutes governing school contracts and other local public contracts; and
- (2) To rectify some of the recurrent and serious problems that exist under the present Statutes.

ASSEMBLY EDUCATION COMMITTEE POSITION:

The committee supports this bill and believes that it would clarify, modernize and improve the law relating to awarding contracts by local school boards.

Section 29 of the bill was amended by the committee to require local boards to submit performance reports regarding the contractors with whom they have done business and to require the State Board of Education to consider such reports as a basis for denial of a favorable classification of bidders. This recommendation has been prompted by some

very serious deficiencies in the work performance of building contractors which have cost local districts considerable time, money and aggravation and resulted in shoddy work products.

**FISCAL IMPLICATIONS :**

The changes in chapter 18 of Title 18A are not expected to increase costs to the State.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 807**

with Assembly committee amendments, Assembly amendments,  
Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 10, 1977

This bill was recommitted to the Assembly Education Committee for the purpose of making further technical changes.

COMMITTEE AMENDMENTS

After a complete review of the bill, the Assembly Education Committee voted unanimously to release it with the following major changes:

- (1) Technical amendments to clarify the language:
  - A. References to "contracting unit" are replaced with "board of education";
  - B. "Secretary and business administration" are included in references to "business manager".
  - C. References to "officer in charge of department" have been replaced by "employee in charge of building, facility or equipment".
- (2) The requirement that New Jersey goods must be used was deleted.
- (3) The requirement that contracts for extraordinary services be awarded by resolution by the board which is printed in at least one newspaper was replaced by the request that such awards be made by resolution by the board at a public meeting.
- (4) The requirement that the board shall advertise for and receive either multiple or single bids was changed to the requirement that they seek both.
- (5) The length of contracts which may exceed 1 year was uniformly changed to the period up to 3 years except for insurance, data processing service and telephone service which may extend to 5 years.

SENATE EDUCATION COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 807**

[THIRD OFFICIAL COPY REPRINT]

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**STATE OF NEW JERSEY**

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DATED: MAY 10, 1977

PROVISIONS OF THE BILL:

This bill is a revision of chapter 18 of Title 18A of the New Jersey Statutes which has been drafted by the Division of Law Revision in the Legislative Services Agency. The State Board of Education and the Association of New Jersey School Boards have been consulted. It is a companion bill to Senate Bill No. 3090 which amends and supplements the existing "Local Public Contracts Law."

PURPOSE:

The purpose of this revision is to update the law relating to awarding contracts by local school boards. In its amended form the bill corrects deficiencies in the present law and places the requirements relating to awarding contracts, with the exception of transportation, within a single chapter of Title 18A.

A requested exception for negotiated yearbook contracts was not deemed necessary since this act applies only to contracts which obligate boards of education and which involve public funds.

HISTORY OF THE PROPOSED LEGISLATION:

School purchasing and contracting matters were originally covered by Title 18A. In 1971, with the enactment of the "Local Public Contracts Law," this field was substantially transferred to Title 40A, and governed together with municipal purchasing and contracting concerns. This bill will transfer school matters back to Title 18A while maintaining substantial compatibility with municipal law.

SENATE EDUCATION COMMITTEE POSITION:

The committee supports this bill and believes that it could clarify, modernize and improve the law relating to awarding contracts by local school boards.

After a careful review of Assembly Bill No. 807, the Senate Education Committee adopted amendments which clarify the intent of the legislation and make numerous technical corrections.

The committee amendments do the following:

(1) Remove the exemption to the requirement for advertising and bidding for specialized machinery and equipment;

(2) Insert an exemption to the requirement for advertising and bidding for insurance;

(3) Reduce the reporting requirements placed on boards of education by limiting the required performance reports on the contractor to public work contracts which exceed \$10,000.00;

(4) Permit the State Board to delegate to the Department of Treasury or other appropriate State agency the authority to qualify bidders; and

(5) Clearly indicate that transportation contracts would continue to be regulated by chapter 39 of Title 18A.

**FISCAL IMPLICATIONS:**

The changes in chapter 18A of Title 18A are not expected to increase costs to the State.

**POSITIONS TAKEN ON THE PROPOSED LEGISLATION:**

The Department of Education and the School Boards Association support the passage of this bill.