

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:11-5 (County Law Libraries--exempt from bidding requirements)

LAWS OF: 1985 **CHAPTER:** 436

BILL NO: A1927

Sponsor(s): McEnroe and Pankok

Date Introduced: May 7, 1984

Committee: Assembly: County Government and Regional Authorities
Senate: County and Municipal Government

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: October 18, 1984
Senate: December 12, 1985

Date of Approval: January 13, 1986

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes
Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

Similar exemptions, referred to in sponsors' statement: N.J.S.A. 40:54-12.1 and N.J.S.A. 40:33-8.1.

136
85
1-13-86
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ASSEMBLY, No. 1927

STATE OF NEW JERSEY

INTRODUCED MAY 7, 1984

By Assemblymen McENROE and PANKOK

AN ACT concerning the purchase of county law library materials
and amending P. L. 1971, c. 198.

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

1 1. Section 5 of P. L. 1971, c. 198 (C. 40A:11-5) is amended to
2 read as follows:

3 5. Exceptions. Any purchase, contract or agreement of the
4 character described in section 4 of this act may be made, negotiated
5 or awarded by the governing body without public advertising for
6 bids and bidding therefor if

7 (1) The subject matter thereof consists of

8 (a) (i) Professional services. The governing body shall in each
9 instance state supporting reasons for its action in the resolution
10 awarding each contract and shall forthwith cause to be printed once,
11 in a newspaper authorized by law to publish its legal advertise-
12 ments, a brief notice stating the nature, duration, service and
13 amount of the contract, and that the resolution and contract are
14 on file and available for public inspection in the office of the clerk
15 of the county or municipality, or, in the case of a contracting unit
16 created by more than one county or municipality, of the counties
17 or municipalities creating such contracting unit; or (ii) Extra-
18 ordinary unspecifiable services. The application of this exception
19 shall be construed narrowly in favor of open competitive bidding,
20 where possible, and the Division of Local Government Services is
21 authorized to adopt and promulgate rules and regulations limiting
22 the use of this exception in accordance with the intention herein
23 expressed. The governing body shall in each instance state sup-

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

Matter printed in italics *thus* is new matter.

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

***—Assembly committee amendment adopted June 18, 1984.**

24 porting reasons for its action in the resolution awarding each
 25 contract and shall forthwith cause to be printed, in the manner
 26 set forth in subsection (1) (a) (i) of this section, a brief notice of
 27 the award of such contract;

28 (b) The doing of any work by employees of the contracting unit;

29 (c) The printing of legal briefs, records and appendices to be
 30 used in any legal proceeding in which the contracting party may be
 31 a party;

32-33 (d) The furnishing of a tax map or maps for the contracting
 34 party;

35 (e) The purchase of perishable foods as a subsistence supply;

36 (f) The supplying of any product or the rendering of any service
 37 by a public utility, which is subject to the jurisdiction of the Board
 38 of Public Utilities, in accordance with tariffs and schedules of
 39 charges made, charged or exacted, filed with said board.

40 (g) The acquisition, subject to prior approval of the Attorney
 41 General, of special equipment for confidential investigation;

42 (h) The printing of bonds and documents necessary to the
 43 issuance and sale thereof by a contracting unit;

44 (i) Equipment repair service if in the nature of an extraordinary
 45 unspecifiable service and necessary parts furnished in connection
 46 with such service, which exception shall be in accordance with the
 47 requirements for extraordinary unspecifiable services;

48 (j) The publishing of legal notices in newspapers as required
 49 by law;

50 (k) The acquisition of artifacts or other items of unique intrin-
 51 sic, artistic or historical character;

52 (l) Election expenses;

53 (m) Insurance, including the purchase of insurance coverage and
 54 consultant services, which exception shall be in accordance with the
 55 requirements for extraordinary unspecifiable services;

56 (n) The doing of any work by handicapped persons employed
 57 by a sheltered workshop;

58 (o) The provision of any service or the furnishing of materials
 59 including those of a commercial nature, attendant upon the opera-
 60 tion of a restaurant by any nonprofit, duly incorporated, historical
 61 society at or on any historical preservation site; **[or]**

62 (p) Homemaker—home health services performed by voluntary,
 63 nonprofit agencies; *or*

64 (q) *The purchase of materials and services for a law library*
 65 *established pursuant to R. S. 40:33-14, including books, periodicals,*
 66 *newspapers, documents, pamphlets, photographs, reproductions,*
 67 *microforms, pictorial or graphic works, ***[musical scores]*** *copy-**

68 *right and patent materials**, maps, charts, globes, sound recordings,
69 *slides, films, filmscripts video and magnetic tapes, and other*
70 *audiovisual, printed, or published material of a similar nature;*
71 *necessary binding or rebinding of law library materials; and*
71A *specialized library services.*

72 (2) It is to be made or entered into with the United States of
73 America, the State of New Jersey, county or municipality or any
74 board, body, officer, agency or authority thereof and any other
75 state or subdivision thereof.

76 (3) The contracting agent has advertised for bids pursuant to
77 section 4 on two occasions and (a) has received no bids on both
78 occasions in response to its advertisement, or (b) the governing
79 body has rejected such bids on two occasions because the contract-
80 ing agent has determined that they are not reasonable as to price,
81 on the basis of cost estimates prepared for or by the contracting
82 agent prior to the advertising therefor, or have not been inde-
83 pendently arrived at in open competition, or (c) on one occasion
84 no bids were received pursuant to (a) and on one occasion all
85 bids were rejected pursuant to (b), in whatever sequence; any such
86 contract or agreement may then be negotiated and may be awarded
87 upon adoption of a resolution by a two-thirds affirmative vote of
88 the authorized membership of the governing body authorizing such
89 contract or agreement; provided, however, that:

90 (i) A reasonable effort is first made by the contracting agent
91 to determine that the same or equivalent materials or supplies,
92 at a cost which is lower than the negotiated price, are not
93 available from an agency or authority of the United States,
94 the State of New Jersey or of the county in which the contract-
95 ing unit is located, or any municipality in close proximity to
96 the contracting unit;

97 (ii) The terms, conditions, restrictions and specifications
98 set forth in the negotiated contract or agreement are not
99 substantially different from those which were the subject of
100 competitive bidding pursuant to section 4 of this act; and

101 (iii) Any minor amendment or modification of any of the
102 terms, conditions, restrictions and specifications, which were
103 the subject of competitive bidding pursuant to section 4 of this
104 act, shall be stated in the resolution awarding such contract
105 or agreement;

106 provided, further, however, that if on the second occasion the bids
107 received are rejected as unreasonable as to price, the contracting
108 agent shall notify each responsible bidder, submitting bids on the
109 second occasion of its intention to negotiate, and afford each such

110 bidder a reasonable opportunity to negotiate, but the governing
111 body shall not award such contract or agreement unless the negoti-
112 ated price is lower than the lowest rejected bid price submitted
113 on the second occasion by a responsible bidder, is the lowest
114 negotiated price offered by any responsible supplier, and is a
115 reasonable price for such work, materials, supplies or services.

116 Whenever a contracting unit shall determine that a bid was not
117 arrived at independently in open competition pursuant to sub-
118 section (3) of this section it shall thereupon notify the county
119 prosecutor of the county in which the contracting unit is located
120 and the Attorney General of the facts upon which its determination
121 is based, and when appropriate, it may institute appropriate pro-
122 ceedings in any State or federal court of competent jurisdiction for
123 a violation of any State or federal antitrust law or laws relating to
124 the unlawful restraint of trade.

1 2. This act shall take effect immediately.

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123 a violation of any State or federal antitrust law or laws relating to
124 the unlawful restraint of trade.

1 2. This act shall take effect immediately.

STATEMENT

This bill would exempt the governing body of a county from the public bidding requirements of the "Local Public Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.) when purchasing materials and services for a law library used by the county courts. A similar exemption was accorded previously to trustees of municipal libraries and county library commissions.

A 1927 (1985)

ASSEMBLY COUNTY GOVERNMENT AND
REGIONAL AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1927

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 1984

Assembly Bill No. 1927, with Assembly committee amendments, exempts the governing body of a county from the public bidding requirements of the "Local Public Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.) when purchasing materials and services for a law library used by the county courts. Currently, a similar exemption is accorded to the trustees of municipal libraries and to county library commissions.

The committee amended the bill to exempt the purchase of copyright and patent materials.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1927

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STATE OF NEW JERSEY

DATED: JUNE 17, 1985

Assembly Bill No. 1927 OCR amends section 5 of P. L. 1971, c. 198 (C. 40A:11-5) to exempt the purchase of materials and services for a county law library established pursuant to R. S. 40:33-14 from the public bidding requirements of the "Local Public Contracts Law."

The purchases and services exempted are: books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, copyright and patent materials, maps, charts, globes, sound recordings, slides, films, filmscripts, video and magnetic tapes, and other audiovisual, printed or published material of a similar nature; necessary binding or rebinding of law library materials; and specialized library services.

Under current law, municipal, joint and county libraries may purchase materials and services without public bidding. (See P. L. 1968, c. 227; C. 40:33-8.1 and C. 40:33-12.1).