

ASSEMBLY, No. 3427

STATE OF NEW JERSEY

222nd LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2026 SESSION

Sponsored by:

Assemblywoman HEATHER SIMMONS

District 3 (Cumberland, Gloucester and Salem)

Assemblywoman CARMEN THERESA MORALES

District 34 (Essex)

SYNOPSIS

Revises provisions of "County College Contracts Law"; permits bidder disqualification due to prior negative experience.

CURRENT VERSION OF TEXT

As reported by the Assembly Higher Education Committee with technical review.



1 AN ACT concerning the awarding of county college contracts and
2 amending and supplementing P.L.1982, c.189 (C.18A:64A-25.1
3 et seq.).
4

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

8 1. N.J.S.18A:64A-12 is amended to read as follows:

9 18A:64A-12. For the effectuation of the purposes of **[this]**
10 chapter 64A of Title 18A of the New Jersey Statutes, the board of
11 trustees of a county college, in addition to **[such]** other powers
12 expressly granted to it by law, is hereby granted the following
13 powers:

- 14 a. To adopt or change the name of the county college;
- 15 b. To adopt and use a corporate seal;
- 16 c. To sue and be sued;
- 17 d. To determine the educational curriculum and program of the
18 college consistent with the programmatic mission of the institution
19 or approved by the Commission on Higher Education;
- 20 e. To appoint and fix the compensation and term of office of a
21 president of the college who shall be the executive officer of the
22 college and an ex officio member of the board of trustees;
- 23 f. To appoint, upon nomination of the president, members of
24 the administrative and teaching staffs and fix their compensation
25 and terms of employment subject to the provisions of
26 N.J.S.18A:64A-13;
- 27 g. To appoint or employ, upon nomination of the president,
28 **[such]** other officers, agents and employees as may be required to
29 carry out the provisions of this chapter and to fix and determine
30 their qualifications, duties, compensation, terms of office and all
31 other conditions and terms of employment and retention;
- 32 h. To fix and determine tuition rates and other fees to be paid
33 by students;
- 34 i. To grant diplomas, certificates or degrees;
- 35 j. To enter into contracts and agreements with the State or any
36 of its political subdivisions or with the United States, or with any
37 public body, department or other agency of the State or the United
38 States or with any individual, firm or corporation which are deemed
39 necessary or advisable by the board for carrying out the provisions
40 of this chapter;
- 41 k. To accept from any government or governmental
42 department, agency or other public or private body or from any
43 other source grants or contributions of money or property which the
44 board may use for or in aid of any of its purposes;

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

Matter underlined thus is new matter.

1 l. To acquire (by gift, purchase, condemnation or otherwise),
2 own, lease, use and operate property, whether real, personal or
3 mixed, or any interest therein, which is necessary or desirable for
4 college purposes;

5 m. To determine that any property owned by the county college
6 is no longer necessary for college purposes and to sell the same at
7 **【such】** the price **【and in such】** , manner , and upon **【such】** terms
8 and conditions as shall be established by the board;

9 n. To exercise the right of eminent domain, pursuant to the
10 provisions of Title 20, Eminent Domain, of the Revised Statutes, to
11 acquire any property or interest therein;

12 o. To make and promulgate **【such】** rules and regulations, not
13 inconsistent with the provisions of this chapter or with the rules and
14 regulations promulgated hereunder that are necessary and proper for
15 the administration and operation of a county college and to
16 implement the provisions of this chapter;

17 p. To exercise all other powers, not inconsistent with the
18 provisions of this chapter or with the rules and regulations
19 promulgated hereunder which may be reasonably necessary or
20 incidental to the establishment, maintenance and operation of a
21 county college; **【and】**

22 q. To establish and maintain a dedicated reserve fund for minor
23 capital needs which in any given year shall not exceed 3% of the
24 replacement value of the college's physical plant;

25 r. Pursuant to the "County College Contracts Law," P.L.1982,
26 c.189 (C.18A:64A-25.1 et seq.), award contracts and agreements for
27 the purchase of goods and services, as distinct from contracts or
28 agreements for the construction of buildings and other
29 improvements, to that responsible bidder whose bid, conforming to
30 the invitation for bids, will be most advantageous to the county
31 college, price and other factors considered; and

32 s. Pursuant to the "County College Contracts Law," P.L.1982,
33 c.189 (C.18A:64A-25.1 et seq.), award contracts and agreements for
34 the construction of buildings and other improvements to the lowest
35 responsible bidder, whose bid, conforming to the invitation for bids,
36 will be the most advantageous to the county college.

37 (cf: P.L.1999, c.46, s.41)
38

39 2. Section 2 of P.L.1982, c.189 (C.18A:64A-25.2) is amended
40 to read as follows:

41 2. As used in this article, unless the context otherwise
42 indicates:

43 a. "Board of trustees" means the board of trustees of a county
44 college and the community college commission of a community
45 college agency;

46 b. "County college" means any body corporate known as

47 (1) the board of trustees of a county college established pursuant
48 to chapter 64A of Title 18A of the New Jersey Statutes, or

- 1 (2) the community college commission of a community college
- 2 agency established pursuant to P.L.1974, c.89 (C.18A:64A-30 et
- 3 seq.);
- 4 c. "Contracting agent" means the business officer of the county
- 5 college having the power to prepare advertisements to advertise for
- 6 and receive bids and to make awards for the county college in
- 7 connection with the purchases, contracts or agreements permitted
- 8 by this article, or **[such]** the officer, committee or employee to
- 9 whom **[such]** that power has been delegated by the county college;
- 10 d. "Contracts" mean contracts or agreements for the
- 11 performance of work or the furnishing or hiring of services,
- 12 materials **[or]** , supplies ,or construction, as distinguished from
- 13 contracts of employment;
- 14 e. "Legal newspaper" means a newspaper circulating in the
- 15 county or counties in which the county college has been established,
- 16 printed and published in the English language at least once a week
- 17 for at least one year continuously;
- 18 f. "Materials" include goods and property subject to chapter 2
- 19 of Title 12A of the New Jersey Statutes, apparatus or any other
- 20 tangible thing except real property or any interest therein;
- 21 g. "Extraordinary unspecifiable services" mean services or
- 22 products which cannot be reasonably described by written
- 23 specifications;
- 24 h. "Professional services" mean services rendered or performed
- 25 by a person authorized by law to practice a recognized profession
- 26 and whose practice is regulated by law and the performance of
- 27 which services requires knowledge of an advanced type in a field of
- 28 learning acquired by a prolonged formal course of specialized
- 29 instruction and study as distinguished from general academic
- 30 instruction or apprenticeship and training. Professional services
- 31 also mean services rendered in the performance of work that is
- 32 original and creative in character in a recognized field of artistic
- 33 endeavor;
- 34 i. "Project" means any work, undertaking, construction or
- 35 alteration;
- 36 j. "Purchases" are transactions, for a valuable consideration,
- 37 creating or acquiring an interest in goods, services and property,
- 38 except real property or any interest therein;
- 39 k. "Work" includes services and any other activity of a tangible
- 40 or intangible nature performed or assumed pursuant to a contract or
- 41 agreement with a county college;
- 42 l. "Information technology" means telecommunication and
- 43 computing goods and services, including, but not limited to,
- 44 software, hardware, cloud computing, and systems implementation
- 45 and support for voice, data, and video.
- 46 (cf: P.L.1994, c.48, s.140)

1 3. Section 3 of P.L.1982, c.189 (C.18A:64A-25.3) is amended
2 to read as follows:

3 3. a. (1) Any purchase, contract or agreement for the
4 performance of any work or the furnishing or hiring of materials or
5 supplies, through which workers employed in the performance of
6 the contract are paid in accordance to the “New Jersey Prevailing
7 Wage Act,” P.L.1963, c.150 (C.34:11-56.25 et seq.), the cost or
8 price of which, together with any sums expended for the
9 performance of any work or services in connection with the same
10 project or the furnishing of similar materials or supplies during the
11 same fiscal year, paid with or out of college funds, does not exceed
12 the total sum of \$25,000 or, commencing January 1, 2003, the
13 amount determined pursuant to subsection b. of this section in any
14 fiscal year may be made, negotiated and awarded by a contracting
15 agent, when so authorized by resolution of the board of trustees of
16 the county college, without public advertising for bids and bidding
17 therefor.

18 (2) Any purchase, contract, or agreement for the performance of
19 any work or the furnishing or hiring of materials or supplies,
20 through which workers are not paid in accordance to the “New
21 Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-56.25 et
22 seq.), the cost or price of which, together with any sums expended
23 for the performance of any work or services in connection with the
24 same project or the furnishing of similar materials or supplies
25 during the same fiscal year, paid with or out of college funds, does
26 not exceed the total sum of \$100,000 or, commencing January 1,
27 2025, the amount determined pursuant to subsection b. of this
28 section in any fiscal year may be made, negotiated and awarded by
29 a contracting agent, when so authorized by resolution of the board
30 of trustees of the county college, without public advertising for bids
31 and bidding therefor.

32 b. Commencing January 1, 2003 and every two years
33 thereafter, the Governor, in consultation with the Department of the
34 Treasury, shall adjust the threshold **[amount]** amounts set forth in
35 subsection a. of this section in direct proportion to the rise or fall of
36 the Consumer Price Index for all urban consumers in the New York
37 and Northeastern New Jersey and the Philadelphia areas as reported
38 by the United States Department of Labor. The adjustment shall
39 become effective on July 1 of the year in which it is reported.

40 c. Any purchase, contract or agreement made pursuant to this
41 section may be awarded for a period of **[24]** 36 consecutive
42 months, notwithstanding that **[such 24]** the 36 -month period does
43 not coincide with the fiscal year.
44 (cf: P.L.2001, c.281, s.1)
45

46 4. Section 4 of P.L.1982, c.189 (C.18A:64A-25.4) is amended
47 to read as follows:

1 4. a. Every contract or agreement for the performance of any
2 work or the furnishing or hiring of any materials or supplies,
3 through which workers employed in the performance of the contract
4 are paid in accordance to the “New Jersey Prevailing Wage Act,”
5 P.L.1963, c.150 (C.34:11-56.25 et seq.), the cost or the contract
6 price of which is to be paid with or out of college funds, not
7 included within the terms of section 3 [hereof] of P.L.1982, c.189
8 (C.18A:64A-25.3), shall be made and awarded only by the county
9 college after public advertising for bids and bidding therefor, except
10 as provided otherwise in this article or specifically by any other
11 law. No work, materials or supplies shall be undertaken, acquired
12 or furnished for a sum exceeding in the aggregate \$7,500.00 or,
13 commencing January 1, 1985, the amount determined pursuant to
14 subsection b. of section 3 of P.L.1982, c.189 (C.18A:64A-25.3),
15 except by written contract or agreement.

16 b. Every contract or agreement for the performance of any work
17 or the furnishing or hiring of any materials or supplies, through
18 which workers employed in the performance of the contract are not
19 paid in accordance to the “New Jersey Prevailing Wage Act,”
20 P.L.1963, c.150 (C.34:11-56.25 et seq.), the cost or price of which,
21 together with any sums expended for the performance of any work
22 or services in connection with the same project or the furnishing of
23 similar materials or supplies during the same fiscal year, paid with
24 or out of college funds, does not exceed the total sum of \$100,000
25 or, commencing January 1, 2025, the amount determined pursuant
26 to subsection b. of section 3 of P.L.1982, c.189 (C.18A:64A-25.3),
27 in any fiscal year may be made, negotiated, and awarded by a
28 contracting agent, when so authorized by resolution of the board of
29 trustees of the county college without public advertising for bids
30 and bidding therefor.

31 (cf: P.L.1984, c.241, s.2)

32
33 5. Section 5 of P.L.1982, c.189 (C.18A:64A-25.5) is amended
34 to read as follows:

35 5. Any purchase, contract or agreement of the character
36 described in section 4 of P.L.1982, c.189 (C.18A:64A-25.4) may be
37 made, negotiated or awarded by the county college by resolution at
38 a public meeting of its board of trustees without public advertising
39 for bids or bidding therefor if:

40 a. The subject matter thereof consists of:

41 (1) Professional services; **[or]**

42 (2) Extraordinary unspecifiable services and products which
43 cannot reasonably be described by written specifications, subject
44 however, to procedures consistent with open public bidding
45 whenever possible; **[or]**

46 (3) Materials or supplies which are not available from more than
47 one potential bidder, including without limitation materials or
48 supplies which are patented or copyrighted; **[or]**

- 1 (4) The doing of any work by employees of the county college;
2 **【or】**
- 3 (5) The printing of all legal notices and legal briefs, records ,
4 and appendices to be used in any legal proceeding to which the
5 county college may be a party and the use of electronic data or
6 media services, including the internet, for the printing of these legal
7 notices and legal briefs, records, and appendices; 【or】
- 8 (6) Textbooks, copyrighted materials, student produced
9 publications and services incidental thereto, library materials
10 including without limitation books, periodicals, newspapers,
11 documents, pamphlets, photographs, reproductions, microfilms,
12 pictorial or graphic works, musical scores, maps, charts, globes,
13 sound recordings, slides, films, filmstrips, video and magnetic
14 tapes, other printed or published matter and audiovisual and other
15 materials of a similar nature, necessary binding or rebinding of
16 library materials and specialized library services , including
17 electronic databases and digital formats; 【or】
- 18 (7) Food supplies and services including food supplies and
19 management contracts for student centers, dining rooms and
20 cafeterias; **【or】**
- 21 (8) The supplying of any product or the rendering of any service
22 by the public utility which is subject to the jurisdiction of the Board
23 of Public Utilities, in accordance with tariffs and schedules of
24 charges made, charged and exacted, filed with **【said】** the board; or
- 25 (9) Equipment repair service if in the nature of an extraordinary
26 unspecifiable service and necessary parts furnished in connection
27 with **【such】** the services; **【or】**
- 28 (10) Specialized machinery or equipment of a technical nature
29 which will not reasonably permit the drawing of specifications, and
30 the procurement thereof without advertising is in the public interest;
31 **【or】**
- 32 (11) Insurance, including the purchase of insurance coverage
33 and consulting services, which exceptions shall be in accordance
34 with the requirements for extraordinary unspecifiable services; **【or】**
- 35 (12) Publishing of legal notices in newspapers, as required by
36 law and the use of electronic data or media services, including the
37 internet, for the publication of legal notices; 【or】
- 38 (13) The acquisition of artifacts or other items of unique
39 intrinsic, artistic or historic character; **【or】**
- 40 (14) The collection of amounts due on student loans, including
41 without limitation loans guaranteed by or made with funds of the
42 United States of America , and amounts due on other financial
43 obligations to the county college, including the amounts due on
44 tuition and fees; 【or】
- 45 (15) Professional consulting services; **【or】**

- 1 (16) Entertainment, including without limitation theatrical
2 presentations, band and other concerts, movies and other
3 audiovisual productions; **【or】**
- 4 (17) Contracts employing funds created by student activities
5 fees charged to students or otherwise raised by students**【, not under**
6 **the direct control of the college】** and expended by student
7 organizations; **【or】**
- 8 (18) Printing, including without limitation catalogs, yearbooks
9 and course announcements and the production and reproduction of
10 the material in electronic and digital formats; **【or】**
- 11 (19) **【Providing goods or services for the use, support or**
12 **maintenance of proprietary computer hardware, software**
13 **peripherals and system development for the hardware】** information
14 technology; **【or】**
- 15 (20) Personnel recruitment and advertising, including without
16 limitation advertising seeking student enrollment; **【or】**
- 17 (21) Educational supplies, books, articles of clothing and other
18 miscellaneous articles purchased by a county college bookstore, or
19 by a service or management company under contract with a county
20 college to operate a county college book store for resale to college
21 students and employees; **【or】**
- 22 (22) Purchase or rental of graduation caps and gowns , and award
23 certificates or plaques or the rental of space and equipment used for
24 graduation and other events and ceremonies; **【or】**
- 25 (23) Expenses for travel or conferences; **【or】**
- 26 (24) Items available from vendors at costs below State contract
27 pricing for the same product or service, which meets or exceeds the
28 State contract terms or conditions ;
- 29 (25) Management contracts for bookstores, performing arts
30 centers, residence halls, parking facilities and building operations;
- 31 (26) Consulting services involving information technology,
32 curricular or programmatic review, fund raising, transportation,
33 safety or security;
- 34 (27) Construction management services for construction,
35 alteration, or repair of any building or improvement;
- 36 (28) Purchase or rental of equipment of a technical nature when
37 the procurement thereof without advertising is necessary in order to
38 assure standardization of equipment and interchangeability of parts
39 in the public interest;
- 40 (29) Banking and investment services;
- 41 (30) Energy supply, including electric and gas, from a third-party
42 supplier;
- 43 (31) Hazardous waste collection and disposal services;
- 44 (32) Supplies and services for the administration of study abroad
45 or remote programs;
- 46 (33) Transportation services;
- 47 (34) Vehicle maintenance;

1 (35) Vending services; or

2 (36) Medical testing.

3 b. It is to be made or entered into with the United States of
4 America, the State of New Jersey, a county or municipality or any
5 board, body, or officer, agency or authority or any other state or
6 subdivision thereof.

7 c. The county college has advertised for bids pursuant to
8 section 4 of P.L.1982, c.189 (C.18A:64A-25.4) on two occasions
9 and (i) has received no bids on both occasions in response to its
10 advertisement, or (ii) has rejected **【such】** the bids on two occasions
11 because the county college has determined that they are not
12 reasonable as to price, on the basis of cost estimates prepared for or
13 by the county college prior to the advertising therefor, or have not
14 been independently arrived at in open competition, or (iii) on one
15 occasion no bids were received pursuant to (i) and on one occasion
16 all bids were rejected pursuant to (ii), in whatever sequence; **【any**
17 **such】** the contract or agreement may then be negotiated by a two-
18 thirds affirmative vote of the authorized membership of the board of
19 trustees authorizing **【such】** the contract or agreement; provided,
20 however, that:

21 (1) A reasonable effort is made by the contracting agent to
22 determine that the same or equivalent materials or supplies at a cost
23 which is lower than the negotiated price are not available from any
24 agency or authority of the United States, the State of New Jersey or
25 from the county in which the county college is located, or any
26 municipality in close proximity to the county college;

27 (2) The terms, conditions, restrictions and specifications set
28 forth in the negotiated contract or agreement are not substantially
29 different from those which were the subject of competitive bidding
30 pursuant to section 4 of P.L.1982, c.189 (C.18A:64A-25.4); and

31 (3) Any **【relevant】** minor amendment or modification of any of
32 the terms, conditions, restrictions and specifications, which were
33 the subject of competitive bidding pursuant to section 4 of
34 P.L.1982, c.189 (C.18A:64A-25.4), shall be stated in the resolution
35 awarding **【such】** the contract or agreement; provided~~【,~~ further,
36 however~~】, that~~ if on the second occasion the bids received are
37 rejected as unreasonable as to price, the county college shall notify
38 each responsible bidder submitting bids on the second occasion of
39 its intention to negotiate and afford each **【such】** bidder a reasonable
40 opportunity to negotiate, but the county college shall not award
41 **【such】** the contract or agreement unless the negotiated price is
42 lower than the lowest rejected bid price submitted on the second
43 occasion by a responsible bidder, is the lowest negotiated price
44 offered by any responsible vendor, and is a reasonable price for
45 **【such】** the work, materials, supplies or services.

46 Whenever a county college shall determine that a bid was not
47 arrived at independently in open competition pursuant to subsection

1 c. (ii) of this section, it shall thereupon notify the county prosecutor
2 of the county in which the county college is located and the
3 Attorney General of the facts upon which its determination is based
4 and, when appropriate, it may institute appropriate proceedings in
5 any State or federal court of competent jurisdiction for a violation
6 of any State or federal antitrust law or laws relating to the unlawful
7 restraint of trade.

8 d. It is to be awarded through a reverse auction for the purchase
9 of utilities and other commodities.

10 (cf: P.L.2001, c.281, s.2)

11
12 6. Section 6 of P.L.1982, c.189 (C.18A:64A-25.6) is amended
13 to read as follows:

14 6. Any purchase, contract, or agreement may be made,
15 negotiated or awarded by a county college without public
16 advertising for bids and bidding therefor, notwithstanding that the
17 cost or contract price will exceed **[\$25,000** or, commencing January
18 1, 2003, the amount determined pursuant to subsection b. of **]** the
19 appropriate threshold amount, as adjusted and established pursuant
20 to section 3 of P.L.1982, c.189 (C.18A:64A-25.3), when an
21 emergency affecting the health, safety or welfare of occupants of
22 college property requires the immediate delivery of the materials or
23 supplies or the performance of the work, provided that **[such]** the
24 purchases, contracts or agreements are awarded or made in the
25 following manner:

26 a. A written requisition for the performance of **[such]** the work
27 or the furnishing of materials or supplies, certified by the employee
28 in charge of the building, facility or equipment where the
29 emergency occurred, is filed with the contracting agent or his
30 deputy in charge, describing the nature of the emergency, the time
31 of its occurrence, and the need for invoking this section. The
32 contracting agent, or his deputy in charge, being satisfied that the
33 emergency exists, is hereby authorized to award a contract for
34 **[said]** the work, materials or supplies.

35 b. Upon the furnishing of **[such]** the work, materials or
36 supplies in accordance with the terms of the contract or agreement,
37 the contractor furnishing **[such]** the work, materials or supplies
38 shall be entitled to be paid therefor and the county college shall be
39 obligated for **[said]** the payment.

40 c. The board of trustees may prescribe rules and procedures to
41 implement the requirements of this section.

42 (cf: P.L.2001, c.281, s.3)

43
44 7. Section 8 of P.L.1982, c.189 (C.18A:64A-25.8) is amended
45 to read as follows:

46 8. Except as provided in section 28 of P.L.1982, c.189
47 (C.18A:64A-25.28), every county college shall, on an annual basis

1 or at **[such]** a lesser **[intervals]** interval as may be fixed by **[it]** the
2 county college, solicit by public advertisement the submission of
3 bids for the furnishing of all work, materials and supplies which are
4 and which under section 4 of P.L.1982, c.189 (C.18A:64A-25.4)
5 can be purchased or agreed or contracted to be furnished only after
6 public advertising for bids and bidding therefor.
7 (cf: P.L.1982, c.189, s.8)

8
9 8. Section 14 of P.L.1982, c.189 (C.18A:64A-25.14) is
10 amended to read as follows:

11 14. a. All advertisements for bids shall be published in a legal
12 newspaper sufficiently in advance of the date fixed for receiving the
13 bids to promote competitive bidding but in no event less than 10
14 days prior to **[such]** that date for any construction projects or any
15 other contract or purchase. In addition to being published in a legal
16 newspaper, advertisements may also be posted using electronic data
17 or media services, including the Internet. The advertisement shall
18 designate the manner of submitting and of receiving the bids ,
19 which may be submitted in electronic format or other format
20 designated by the contracting agent, and the time and place at which
21 the bids will be received. If the published specifications provide for
22 receipt of bids by mail, those bids which are mailed to the county
23 college shall be sealed and shall be opened only at **[such]** the time
24 and place as all bids received are unsealed and announced. At
25 **[such]** the time and place, the contracting agent of the county
26 college shall publicly receive the bids and thereupon immediately
27 proceed to unseal them and publicly announce the contents, which
28 announcement shall be made in the presence of any parties bidding
29 or their agents who are then and there present. A proper record of
30 the prices and terms shall be made. No bids shall be received after
31 the time designated in the advertisement.

32 b. Notice of revisions or addenda to advertisements or bid
33 documents relating to bids shall be published in a legal newspaper
34 and may also be posted using electronic data or media services,
35 including the Internet, no later than seven days, Saturdays, Sundays
36 and holidays excepted, prior to the bid due date. The notice shall be
37 provided to any person who has submitted a bid or who has
38 received a bid package, in one of the following ways: (a) in writing
39 by certified mail **[or]** ; (b) by certified facsimile transmission,
40 meaning that the sender's facsimile machine produces a receipt
41 showing date and time of transmission and that the transmission
42 was successful **[or]** ; (c) by a delivery service that provides
43 certification of delivery to the sender ; or (d) by electronic means,
44 including email, or other electronic format designated by the
45 contracting agent. Failure to advertise or provide proper notification
46 of revisions or addenda to advertisements or bid documents related
47 to bids as prescribed by this section shall prevent the acceptance of

1 bids and require the readvertisement for bids. Failure to obtain a
2 receipt when good faith notice is sent or delivered to the address
3 **【or】**, telephone facsimile number , or email address on file with the
4 county college shall not be considered failure by the county college
5 to provide notice.

6 (cf: P.L.2005, c.191, s.3)

7
8 9. Section 19 of P.L.1982, c.189 (C.18A:64A-25.19) is
9 amended to read as follows:

10 19. All purchases, contracts or agreements , as distinct from
11 contracts or agreements for the construction of buildings and other
12 improvements, which require public advertisement for bids shall be
13 awarded by the board of trustees to the **【lowest】** responsible bidder
14 whose bid, conforming to the invitation for bids, will be most
15 advantageous to the county college, price and other factors
16 considered, except that a bid may be disqualified due to a prior
17 negative experience pursuant to the provisions of section 14 of
18 P.L. , c. (C.) (pending before the Legislature as this bill).

19 Prior to the award of any other purchase, contract or agreement
20 which does not require public advertisement, the estimated cost of
21 which is 20**【%】** percent or more, of the amount set forth in or,
22 commencing January 1, 1985, 20**【%】** percent of the amount
23 determined by the Governor pursuant to subsection b. of section 3
24 of P.L.1982, c. 189 (C. 18A:64A-25.3), the contracting agent shall,
25 except in the case of professional services, solicit quotations
26 therefor whenever practicable, and the award thereof shall be made,
27 in accordance with section 3 of P.L.1982, c.189 (C.18A:64A-25.3),
28 on the basis of the **【lowest responsible】** quotation **【received】** ,
29 conforming to the request for proposals, which is most
30 advantageous to the county college, price and other factors
31 considered; provided, however, if the contracting agent deems it
32 impractical to solicit competitive quotations or having sought
33 **【such】** the quotations determines that the award should not be made
34 on **【the】** that basis **【of the lowest quotation received】**, the
35 contracting agent shall file a statement of explanation of the reason
36 or reasons therefor, which shall be placed on file with **【such】** the
37 purchase, contract or agreement.

38 (cf: P.L.1984, c.241, s.6)

39
40 10. Section 25 of P.L.1982, c.189 (C.18A:64A-25.25) is
41 amended to read as follows:

42 25. a. In the preparation of plans and specifications for the
43 construction, alteration or repair of any building by a county
44 college, when the entire cost of the work and materials will exceed
45 **【\$25,000 or, commencing January 1, 2003,】** the amount determined
46 pursuant to subsection b. of section 3 of P.L.1982, c.189
47 (C.18A:64A-25.3), **【separate plans and specifications may be**

1 prepared for each of the following branches of work in the
2 following categories, to include all work and materials related
3 thereto or to be performed or furnished in connection therewith **】** the
4 contracting agent shall advertise for and receive in the manner
5 provided by law:

6 (1) separate bids for branches of work in the following
7 categories:

8 (a) The plumbing and gas fitting work;

9 (b) The refrigeration, heating and ventilating systems and
10 equipment;

11 (c) The electrical work, including any electrical power plants,
12 tele-data, fire alarm, or security systems;

13 (d) The structural steel and ornamental iron work;

14 (e) General construction, which shall include all other work and
15 materials required for the completion of the project;

16 (2) single bids by general contractors for all work and materials
17 required to complete the entire project, if awarded as a single
18 contract; or

19 (3) separate bids for branches of work in the categories listed in
20 paragraph (1) of this subsection and single bids by general
21 contractors for all work and materials required to complete the
22 entire project, if awarded as a single contract.

23 b. **【**With regard to the branch work categories in subsection a.
24 of this section, the contracting agent shall advertise for and receive
25 in the manner provided by law (1) separate bids for each of the
26 foregoing categories (a) through (e), or (2) single bids by general
27 contractors for all work and materials required to complete the
28 entire project, if awarded as a single contract, or (3) both.**】** (1) In
29 the case of separate bids under paragraph (1) or (3) of **【this】**
30 subsection a. of this section for **【categories (a) through (d) of**
31 **subsection a. of this section】** work in the categories listed in
32 paragraph (1) of subsection a. of this section, prime contractors
33 shall not be required to name subcontractors in their bid.

34 (2) In the case of a single bid under paragraph (2) or (3) of
35 subsection a. of this section, all bids submitted shall set forth the
36 name or names of, and evidence of performance security from, all
37 subcontractors to whom the general contractor will subcontract the
38 **【work described in the foregoing categories (a) through (d) of】**
39 branches of work in the categories listed in paragraph (1) of
40 subsection a. of this section.

41 (3) Subcontractors who furnish non-specialty trade work
42 pursuant to **【category】** subparagraph (e) of paragraph (1) of
43 subsection a. of this section or subcontractors who furnish work to
44 named subcontractors pursuant to **【categories】** subparagraphs (a)
45 through (d) of paragraph (1) of subsection a. of this section shall not
46 be named in the bid submitted pursuant to paragraph (2) of this
47 subsection.

1 (4) Notwithstanding the foregoing provisions of this subsection,
2 a county college may choose to require in its bid specification that a
3 subcontractor shall be named in a bid when, in the case of
4 paragraph (1) of subsection **[b.] a.** of this section, separate bids for
5 each category, the work of that subcontractor exceeds 35 percent of
6 the county college's estimated amount of value of the work, which
7 shall be set forth in the bid specification.

8 c. Contracts shall be awarded to the lowest responsible bidder
9 whose bid, conforming to the invitation for bids, will be the most
10 advantageous to the county college, except that a bid may be
11 disqualified due to prior negative experience pursuant to the
12 provisions of section 14 of P.L. , c. (C.) (pending before the
13 Legislature as this bill). **[In the event that a contract is advertised**
14 **in accordance with (3) above, the contract shall be awarded in the**
15 **following manner: if the sum total of the amounts bid by the lowest**
16 **responsible bidder for each category (a) through (e) is less than the**
17 **amount bid by the lowest responsible bidder for all the work and**
18 **materials, the county college shall award separate contracts for each**
19 **of such categories to the lowest responsible bidder therefor, but if**
20 **the sum total of the amount bid by the lowest responsible bidder for**
21 **each category is not less than the amount bid by the lowest**
22 **responsible bidder for all the work and materials, the county college**
23 **shall award a single contract to the lowest responsible bidder for all**
24 **of such work and materials. In every case in which a contract is**
25 **awarded under (2) above, all payments required to be made under**
26 **the contract for work and materials supplied by a subcontractor**
27 **shall, upon the certification of the contractor of the amount due to**
28 **the subcontractor, be paid directly to the subcontractor.]**

29 (cf: P.L.2012, c.59, s.3)

30
31 11. Section 27 of P.L.1982, c.189 (C.18A:64A-25.27) is
32 amended to read as follows:

33 27. Any county college may, by resolution of its board of
34 trustees, authorize the sale in the following manner of its personal
35 property not needed for college purposes:

36 a. If the estimated fair value of the property to be sold exceeds
37 **[\$25,000] \$100,000 or**, commencing January 1, 2003, the
38 amount determined pursuant to subsection b. of section 3 of
39 P.L.1982, c.189 (C.18A:64A-25.3) in any one sale and the property
40 does not consist of perishable goods, it shall be sold at public sale
41 to the highest bidder.

42 b. Notice of the date, time and place of the public sale, together
43 with a description of the items to be sold and the conditions of sale
44 shall be published once in a legal newspaper. **[Such] The** sales
45 shall be held not less than seven nor more than 14 days after the
46 publication of the notice thereof.

1 c. Personal property may be sold to the United States, the State
2 of New Jersey, another county college or to any body politic by
3 private sale without advertising for bids.

4 d. If no bids are received, the property may then be sold at
5 private sale without further publication or notice thereof but in no
6 event at less than the estimated fair value; or the county college
7 may, if it so elects, reoffer the property at public sale. As used
8 herein, "estimated fair value" means the market value of the
9 property if sold by a willing seller to a willing buyer less the cost to
10 the college of continuing to store or maintain **[such]** the property.

11 e. A county college may reject all bids if it determines **[such]**
12 the rejection to be in the public interest. In any case in which the
13 college has rejected all bids, it may readvertise **[such]** the personal
14 property for a subsequent public sale. If it elects to reject all bids at
15 a second public sale pursuant to this section, it may then sell **[such]**
16 the personal property without further publication or notice thereof
17 at private sale, provided that in no event shall the negotiated price at
18 the private sale be less than the amount of the highest bid rejected
19 at the preceding two public sales, and provided further that in no
20 event shall the terms or conditions of sale be changed or amended.

21 f. If the estimated fair value of the property to be sold does not
22 exceed **[\$25,000] \$100,000** or**],** commencing January 1, 2003,**]** the
23 amount determined pursuant to subsection b. of section 3 of
24 P.L.1982, c.189 (C.18A:64A-25.3) in any one sale or the property
25 consists of perishable goods, it may be sold at private sale without
26 advertising for bids.

27 g. Notwithstanding the provisions of this section, by resolution
28 of the board of trustees, a purchasing agent may include a sale of
29 personal property no longer needed for county college purposes as
30 part of specifications to offset the price of a new purchase.

31 (cf: P.L.2001, c.281, s.6)

32
33 12. Section 28 of P.L.1982, c.189 (C.18A:64A-25.28) is
34 amended to read as follows:

35 28. **[Duration of certain contracts.]** A county college may only
36 enter into a contract exceeding **[24] 36** consecutive months for the:

37 a. Supplying of**]:**

38 (1) Fuel for heating purposes for any term not exceeding in the
39 aggregate three years; or

40 (2) Fuel or**] fuel and** oil for **[use in automobiles, autobuses,**
41 **motor vehicles or equipment]** heating and other purposes and
42 utilities for any term not exceeding in the aggregate **[three] five**
43 years; **[or]**

44 b. Plowing and removal of snow and ice for any term not
45 exceeding in the aggregate **[three] five** years; **[or]**

46 c. Collection and disposal of garbage and refuse for any term
47 not exceeding in the aggregate **[three] five** years; **[or]**

- 1 d. **【**Providing goods or services for the use, support or
2 maintenance of proprietary computer hardware, software
3 peripherals and system development for the hardware**】** Purchase,
4 lease, or servicing of information technology for any term of not
5 more than five years; **【or】**
- 6 e. Insurance, including the purchase of insurance coverages,
7 insurance consultant or administrative services, and including
8 participation in a joint self-insurance fund, risk management
9 programs or related services provided by a county college insurance
10 group, or participation in an insurance fund established by a county
11 pursuant to N.J.S.40A:10-6, for any term of not more than **【three】**
12 five years; **【or】**
- 13 f. Leasing or service of automobiles, motor vehicles,
14 **【**electronic communications equipment,**】** machinery and equipment
15 of every nature and kind for any term not exceeding in the
16 aggregate five years; **【or】**
- 17 g. **【**Supplying of any product or rendering of any service by a
18 company providing voice, data, transmission or switching services,
19 for a term not exceeding five years; or**】** (Deleted by amendment,
20 P.L. , c. (pending before the Legislature as this bill)
- 21 h. The providing of food supplies and services, including food
22 supplies and management contracts for student centers, dining
23 rooms, vending operations, and cafeterias, for a term not exceeding
24 30 years; **【or】**
- 25 i. (Deleted by amendment, P.L.2009, c.4).
- 26 j. Any single project for the construction, reconstruction or
27 rehabilitation of a public building, structure or facility, or a public
28 works project including the retention of the services of an architect
29 **【or】** , engineer , construction manager, or other consultant in
30 connection with the project, for the length of time necessary for the
31 completion of the actual construction; **【or】**
- 32 k. The management and operation of bookstores , performing
33 arts centers, residence halls, parking facilities, and building
34 operations for a term not exceeding 30 years; **【or】**
- 35 l. Custodial or janitorial services for any term not exceeding in
36 the aggregate **【three】** five years; **【or】**
- 37 m. Child care services for a term not exceeding **【three】** five
38 years; **【or】**
- 39 n. Security services for a term not exceeding **【three】** five
40 years; **【or】**
- 41 o. Ground maintenance services for a term not exceeding
42 **【three】** five years; **【or】**
- 43 p. Laundering, dry-cleaning or rental of uniforms for a term not
44 exceeding **【three】** five years; **【or】**
- 45 q. The performance of work or services or the furnishing of
46 materials and supplies for the purpose of producing class I

1 renewable energy, as that term is defined in section 3 of P.L.1999,
2 c.23 (C.48:3-51), at, or adjacent to, buildings owned by, or
3 operations conducted by, the contracting unit, the entire price of
4 which is to be established as a percentage of the resultant savings in
5 energy costs, for a term not to exceed 30 years; provided, however,
6 that these contracts shall be entered into only subject to and in
7 accordance with guidelines promulgated by the Board of Public
8 Utilities establishing a methodology for computing energy cost
9 savings and energy generation costs;

10 r. The provision of banking, financial services, and e-
11 commerce services for a term not exceeding five years;

12 s. The provision of services for maintenance and repair of
13 building systems, including, fire alarms, fire suppression systems,
14 security systems, and heating, ventilation, and air conditioning
15 systems for a term not exceeding five years; or

16 t. Purchase of alternative energy or the purchase or lease of
17 alternative energy services or equipment for conservation or cost
18 saving purposes for a term not exceeding 30 years.

19 All multi-year leases and contracts entered into pursuant to this
20 section, except contracts and agreements for the provision of work
21 or the supplying of equipment to promote energy conservation
22 through the production of class I renewable energy and authorized
23 pursuant to subsection q. of this section, and except contracts for
24 insurance coverages, insurance consultant or administrative
25 services, participation or membership in a joint self-insurance fund,
26 risk management programs or related services of a county college
27 insurance group, and participation in an insurance fund established
28 by a county pursuant to N.J.S.40A:10-6 or a joint insurance fund
29 established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), shall
30 contain a clause making them subject to the availability and
31 appropriation annually of sufficient funds to meet the extended
32 obligation or contain an annual cancellation clause.

33 (cf: P.L.2009, c.90, s.45)
34

35 13. (New section) a. Notwithstanding any other provision of
36 law to the contrary, a board of trustees of a county college may, by
37 resolution approved by a majority of the board and subject to
38 subsections b. and c. of this section, disqualify a bidder who would
39 otherwise be determined to be the lowest responsible bidder or the
40 responsible bidder whose bid would otherwise be determined to be
41 most advantageous to the county college, as applicable, if the board
42 finds that a board of a public institution of higher education in the
43 State has had prior negative experience with the bidder within the
44 past 15 years.

45 b. As used in this section, "prior negative experience" means
46 any of the following:

47 (1) the bidder has been found, through either court adjudication,
48 arbitration, mediation, or other contractually stipulated alternate

1 dispute resolution mechanism, to have: failed to provide or perform
2 goods or services; or failed to complete the contract in a timely
3 manner; or otherwise performed unsatisfactorily under a prior
4 contract with a public institution of higher education;

5 (2) the bidder defaulted on a contract, thereby requiring a public
6 institution of higher education to utilize the services of another
7 contractor to provide the goods or perform the services or to correct
8 or complete the contract;

9 (3) the bidder defaulted on a contract, thereby requiring a public
10 institution of higher education to look to the bidder's surety for
11 completion of the contract or tender of the costs of completion; or

12 (4) the bidder is debarred or suspended from contracting with
13 any of the agencies or departments of the executive branch of the
14 State of New Jersey at the time of the contract award, whether or
15 not the action was based on experience with a public institution of
16 higher education.

17 c. The following conditions shall apply if the county college is
18 contemplating a disqualification based on prior negative experience:

19 (1) The existence of any of the indicators of prior negative
20 experience set forth in this section shall not require that a bidder be
21 disqualified. In each instance, the decision to disqualify shall be
22 made within the discretion of the county college and shall be
23 rendered in the best interests of the county college.

24 (2) All mitigating factors shall be considered in determining the
25 seriousness of the prior negative experience and in deciding
26 whether disqualification is warranted.

27 (3) The bidder shall be furnished by the county college with a
28 written notice (a) stating that a disqualification is being considered;
29 (b) setting forth the reason for the disqualification; and (c)
30 indicating that the bidder shall be accorded an opportunity for a
31 hearing before the county college if the bidder so requests within a
32 stated period of time. At the hearing, the bidder shall show good
33 cause why the bidder should not be disqualified by presenting
34 documents and testimony. If the county college determines that
35 good cause has not been shown by the bidder, it may vote to find
36 the bidder lacking in responsibility and, thus, disqualified.

37 (4) Disqualification shall be for a reasonable, defined period of
38 time which shall not exceed five years.

39 (5) A disqualification, other than a disqualification pursuant to
40 which a county college is prohibited by law from entering into a
41 contract with a bidder, may be voided or the period thereof may be
42 reduced, at the discretion of the county college, upon the
43 submission of a good faith application under oath, supported by
44 documentary evidence, setting forth substantial and appropriate
45 grounds for the granting of relief, including reversal of a judgment
46 or actual change of ownership, management, or control of the
47 bidder.

1 (6) An opportunity for a hearing need not be offered to a bidder
2 whose disqualification is based on its suspension or debarment by
3 an agency or department of the executive branch of the State of
4 New Jersey. The term of the disqualification shall be concurrent
5 with the term of the suspension or debarment by the State agency or
6 department.

7

8 14. This act shall take effect on the first day of the second month
9 next following the date of enactment.