ASSEMBLY, No. 1056



STATE OF NEW JERSEY

219th LEGISLATURE



PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

SYNOPSIS

Revises standards for contracting at State colleges to mirror standards applicable to public research universities; increases bid threshold for all four-year public institutions of higher education to $100,000.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



An Act concerning institutions of higher education, revising various parts of the statutory law, and supplementing chapter 64 of Title 18A of the New Jersey Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.18A:64-6 is amended to read as follows:

18A:64-6. The board of trustees of a State college shall have general supervision over and shall be vested with the conduct of the college. It shall have the power and duty to:

a. Adopt and use a corporate seal;

b. Determine the educational curriculum and program of the college consistent with the programmatic mission of the institution or approved by the **[**Commission on**]** Secretary of Higher Education;

c. Determine policies for the organization, administration and development of the college;

d. Study the educational and financial needs of the college; annually acquaint the Governor and Legislature with the condition of the college; and prepare and present the annual budget to the Governor, the Division of Budget and Accounting in the Department of the Treasury and the Legislature in accordance with law;

e. Disburse all moneys appropriated to the college by the Legislature and all moneys received from tuition, fees, auxiliary services and other sources;

f. Direct and control expenditures and transfers of funds appropriated to the college and tuition received by the college, in accordance with the provisions of the State budget and appropriation acts of the Legislature, reporting changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the State Department of the Treasury and as to funds received from other sources, direct and control expenditures and transfers in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions. All accounts of the college shall be subject to audit by the State at any time;

g. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint and fix the compensation of a president of the college, who shall be the executive officer of the college and an ex officio member of the board of trustees, without vote, and shall serve at the pleasure of the board of trustees;

h. Notwithstanding the provisions of Title **[**11, Civil Service,

of the Revised**]** 11A of the New Jersey Statutes, upon nomination by the president appoint a treasurer and such deans and other professional members of the academic, administrative and teaching staffs as defined in section 13 of P.L.1986, c.42 (C.18A:64-21.2) as shall be required and fix their compensation and terms of employment in accordance with salary ranges and policies which shall prescribe qualifications for various classifications and shall limit the percentage of the educational staff that may be in any given classification;

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

j. Grant diplomas, certificates and degrees;

k. **[**Pursuant to the provisions of the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.) enter into contracts and agreements for the purchase of lands, buildings, equipment, materials, supplies and services; enter**]** Enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm, or corporation, which are deemed necessary or advisable by the board for carrying out the purposes of the college. A contract or agreement pursuant to this subsection may require a municipality to undertake obligations and duties to be performed subsequent to the expiration of the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, and the obligations and duties so incurred by such municipality shall be binding and of full force and effect, notwithstanding that the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, shall have expired;

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

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

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

o. Fix and determine tuition rates and other fees to be paid by students;

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

q. Acquire by gift, purchase, condemnation or otherwise, own, lease, dispose of, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for college purposes;

r. Employ architects to plan buildings; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for equipment; and supervise the construction of buildings;

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

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

u. Authorize any new program, educational department or school consistent with the institution's programmatic mission or approved by the **[**commission**]** Secretary of Higher Education;

v. (Deleted by amendment, P.L.1994, c.48);

w. **[**Pursuant to the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), award contracts and agreements for the purchase of goods and services, as distinct from contracts or agreements for the construction of buildings and other improvements, to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the State college, price and other factors considered; and**]** (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill);

x. **[**Pursuant to the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), award contracts and agreements for the construction of buildings and other improvements to the lowest responsible bidder, whose bid, conforming to the invitation for bids, will be the most advantageous to the State college**]** (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill);

y. Adopt standing operating rules and procedures for the purchase of all equipment, materials, supplies and services; however, no contract on behalf of the college shall be entered into for the purchase of services, materials, equipment and supplies, for the performance of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds $100,000 or the amount determined by the Governor as provided herein, unless the college shall first publicly advertise for bids and shall award the contract to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the college, price and other factors considered. Such advertising shall not be required in those exceptions created by the board of trustees of the college, which shall be in substance those exceptions contained in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10) and section 5 of P.L.1986, c.43 (C.18A:64-56) or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities of this State and tariffs and schedules of the charges made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered which are filed with the said board. Commencing July 1, 2020 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this subsection in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the college of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported.

This subsection shall not prevent the college from having any work performed by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires or the exigency of the college’s service will not admit of such advertisement. In such case, the college shall, by resolution passed by the affirmative vote of its board of trustees, declare the exigency or emergency to exist, and set forth in the resolution the nature and approximate amount to be expended; shall maintain appropriate records as to the reason for such awards; and shall report regularly to its board of trustees on all such purchases, the amounts and the reasons therefor;

z. Invest certain moneys in such obligations, securities and other investments as the board shall deem prudent, consistent with the purposes and provisions of this act and in accordance with State and federal law, as follows:

Investment in not-for-profit corporations or for-profit corporations organized and operated pursuant to the provisions of subsection aa. of this section may utilize income realized from the sale or licensing of intellectual property as well as the reinvestment of earnings on intellectual property. Investment in not-for-profit corporations may also utilize income from the operation of clinical counseling practices of the college and income from overhead grant fund recovery as permitted by federal law as well as other college funds except those specified in paragraph 5 of subsection aa. of this section;

aa. (1) Participate as the general partner or as a limited partner, either directly or through a subsidiary corporation created by the college, in limited partnerships, general partnerships, or joint ventures engaged in the development, manufacture, or marketing of products, technology, scientific information or services and create or form for-profit or not-for-profit corporations to engage in such activities; provided that any such participation shall be consistent with the mission of the college and the board shall have determined that such participation is prudent;

(2) The decision to participate in any activity described in paragraph (1) of this subsection, including the creation or formation of for-profit or not-for-profit corporations, shall be articulated in the minutes of the board of trustees meeting in which the action was approved;

(3) The provisions of P.L.1971, c.182 (C.52:13D-12 et seq.) shall continue to apply to the college, its employees, and officers;

(4) Nothing herein shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds of the State;

(5) Funds directly appropriated to the college from the State or derived from the college’s academic programs shall not be utilized by the for-profit or not-for-profit corporations organized and operated pursuant to this subsection in the development, manufacture, or marketing of products, technology or scientific information;

(6) Employees of any joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the college shall not be deemed public employees;

(7) A joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the college shall not be deemed an instrumentality of the State of New Jersey;

(8) Income realized by the college as a result of participation in the development, manufacture, or marketing of products, technology, or scientific information may be invested or reinvested pursuant to subsection z. of this section or any other provision of this act or State or federal law or retained by the board for use in furtherance of any of the purposes of this act or of other applicable statutes;

(9) The board shall annually report to the State Treasurer on the operation of all joint ventures, subsidiary corporations, partnerships, or such other jural entities entered into or owned wholly or in part by the college.

(cf: P.L.2005, c.369, s.1)

2. Section 2 of P.L.1986, c.43 (C.18A:64-53) is amended to read as follows:

2. As used in **[**this article**]** section 5 of P.L.1986, c.43 (C.18A:64-56), unless the context otherwise indicates:

a. "Board of trustees" means the board of a State college;

b. "Contracting agent" means the business officer of the State college having the power to prepare advertisements, to advertise for and receive bids, and to make awards for the State college in connection with the purchases, contracts or agreements permitted by this article or the officer, committee or employee to whom the power has been delegated by the State college;

c. "Contracts" means contracts or agreements for the performance of work or the furnishing or hiring of services, materials or supplies, as distinguished from contracts of employment;

d. "Legal newspaper" means a newspaper circulating in this State which has been printed and published in the English language at least once a week for at least one year continuously;

e. "Materials" includes goods and property subject to chapter 2 of Title 12A of the New Jersey Statutes, apparatus or any other tangible thing, except real property or any interest therein;

f. "Extraordinary unspecifiable services" means services or products which cannot be reasonably described by written specifications;

g. "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services also means services rendered in the performance of work that is original and creative in character in a recognized field of artistic endeavor;

h. "Project" means any work, undertaking, construction or alteration;

i. "Purchases" are transactions, for a valuable consideration, creating or acquiring an interest in goods, services and property except real property or any interest therein;

j. "State college" means an institution of higher education established pursuant to chapter 64 of Title 18A of the New Jersey Statutes;

k. "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a State college;

l. "Information technology" means telecommunication goods and services, including, but not limited to, software, hardware and

systems implementation and support for voice, data and video.

(cf: P.L.2005, c.369, s.2)

3. Section 5 of P.L.1986, c.43 (C.18A:64-56) is amended to read as follows:

5. **[**Any**]** The standing operating procedures adopted pursuant to N.J.S.18A:64-6 shall provide that any purchase, contract or agreement **[**of the character described in section 4 of P.L.1986, c.43 (C.18A:64-55)**]** may be made, negotiated or awarded by the State college by resolution at a public meeting of its board of trustees without public advertising for bids or bidding therefor if:

a. The subject matter thereof consists of:

(1) Professional services; or

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

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

(4) The doing of any work by employees of the State college; or

(5) The printing of all legal notices and legal briefs, records and appendices to be used in any legal proceeding to which the State college may be a party and the use of electronic data or media services, including the internet, for the printing of these legal notices and legal briefs, records and appendices; or

(6) Textbooks, copyrighted materials, student produced publications and services incidental thereto, library materials including without limitation books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials and specialized library services, including electronic databases and digital formats; or

(7) Food supplies and services, including food supplies and management contracts for student centers, dining rooms and cafeterias; or

(8) The supplying of any product or the rendering of any service by the public utility which is subject to the jurisdiction of the Board of Public Utilities, in accordance with tariffs and schedules of charges made, charged and exacted, filed with that board; or

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

(10) Specialized machinery or equipment of a technical nature which will not reasonably permit the drawing of specifications, and the procurement thereof without advertising is in the public interest; or

(11) Insurance, including the purchase of insurance coverage and consulting services, which exceptions shall be in accordance with the requirements for extraordinary unspecifiable services; or

(12) Publishing of legal notices in newspapers as required by law and the use of electronic data or media services, including the internet, for the publication of the legal notices; or

(13) The acquisition of artifacts or other items of unique intrinsic, artistic or historic character; or

(14) The collection of amounts due on student loans, including without limitation loans guaranteed by or made with funds of the United States of America, and amounts due on other financial obligations to the State college, including but not limited to, the amounts due on tuition and fees and room and board; or

(15) Professional consulting services; or

(16) Entertainment, including without limitation theatrical presentations, band and other concerts, movies and other audiovisual productions; or

(17) Contracts employing funds created by student activities fees charged to students or otherwise raised by students and expended by student organizations; or

(18) Printing, including without limitation catalogs, yearbooks and course announcements and the production and reproduction of such material in electronic and digital formats, including compact discs; or

(19) Information technology; or

(20) Personnel recruitment and advertising, including without limitation advertising seeking student enrollment; or

(21) Educational supplies, books, articles of clothing and other miscellaneous articles purchased by a State college for resale to college students and employees; or

(22) Purchase or rental of graduation caps and gowns and award certificates or plaques; or

(23) Items available from vendors at costs below State contract pricing for the same product or service, which meets or exceeds the State contract terms or conditions; or

(24) Management contracts for bookstores, performing arts centers, residence halls, parking facilities and building operations; or

(25) Consulting services involving information technology, curricular or programmatic review, fund raising, transportation, safety or security; or

(26) Construction management services for construction, alteration or repair of any building or improvement; or

(27) Purchase or rental of equipment of a technical nature when the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest.

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

c. The State college has advertised for bids **[**pursuant to section 4 of P.L.1986, c.43 (C.18A:64-55)**]** on two occasions and (i) has received no bids on both occasions in response to its advertisement, or (ii) has rejected the bids on two occasions because the State college has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the State college prior to the advertising therefor, or have not been independently arrived at in open competition, or (iii) on one occasion no bids were received pursuant to (i) and on one occasion all bids were rejected pursuant to (ii), in whatever sequence; any contract or agreement may then be negotiated by a two-thirds affirmative vote of the authorized membership of the board of trustees authorizing the contract or agreement; provided that:

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

(2) The terms, conditions, restrictions and specifications set forth in the negotiated contract or agreement are not substantially different from those which were the subject of competitive bidding **[**pursuant to section 4 of this article**]**; and

(3) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding **[**pursuant to section 4 of P.L.1986, c.43 (C.18A:64-55)**]**, shall be stated in the resolution awarding the contract or agreement; except that if on the second occasion the bids received are rejected as unreasonable as to price, the State college shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate and afford each bidder a reasonable opportunity to negotiate, but the State college shall not award the contract or agreement unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any reasonable vendor, and is a reasonable price for the work, materials, supplies or services. Whenever a State college shall determine that a bid was not arrived at independently in open competition pursuant to subsection c. (ii) of this section, it shall thereupon notify the Attorney General of the facts upon which its determination is based and, when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

(cf: P.L.2005, c.369, s.5)

4. Section 30 of P.L.1986, c.43 (C.18A:64-81) is amended to read as follows:

30. No action for damages shall lie against the **[**Board of Higher Education, the Commission on**]** Secretary of Higher Education, the Presidents' Council, any State official, any State college or its board of trustees or any of its officers because of any action taken **[**by virtue of the provisions of this article**]** in regard to contracts and agreements for the purchase of lands, buildings, equipment, materials, supplies and services.

(cf: P.L.1994, c.48, s.118)

5. Section 43 of P.L.2009, c.90 (C.18A:64-85) is amended to read as follows:

43. a. (1) A State college or county college may enter into a contract with a private entity, subject to subsection f. of this section, to be referred to as a public-private partnership agreement, that permits the private entity to assume full financial and administrative responsibility for the on-campus construction, reconstruction, repair, alteration, improvement, extension, management, or operation of a building, structure, or facility of, or for the benefit of, the institution, provided that the project is financed in whole by the private entity and that the State or institution of higher education, as applicable, retains full ownership of the land upon which the project is completed.

(2) A public-private partnership agreement may include an agreement under which a State or county college leases to a private entity the operation of a dormitory or other revenue-producing facility to which the college holds title, in exchange for up-front or structured financing by the private entity for the construction of classrooms, laboratories, or other academic buildings. Under the lease agreement, the college shall continue to hold title to the facility, and the private entity shall be responsible for the management, operation, and maintenance of the facility. The private entity shall receive some or all, as per the agreement, of the revenue generated by the facility and shall operate the facility in accordance with college standards. A lease agreement shall not affect the status or employment rights of college employees who are assigned to, or provide services to, the leased facility. At the end of the lease term, subsequent revenue generated by the facility, along with management, operation, and maintenance responsibility, shall revert to the college.

b. (1) A private entity that assumes financial and administrative responsibility for a project pursuant to subsection a. of this section shall not be subject to the procurement and contracting requirements of all statutes applicable to the institution of higher education at which the project is completed, including, but not limited to, the **[**"State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), and the**]** "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.). For the purposes of facilitating the financing of a project pursuant to subsection a. of this section, a public entity may become the owner or lessee of the project or the lessee of the land, or both, may become the lessee of a dormitory or other revenue-producing facility to which the college holds title, may issue indebtedness in accordance with the public entity's enabling legislation and, notwithstanding any provision of law to the contrary, shall be empowered to enter into contracts with a private entity and its affiliates without being subject to the procurement and contracting requirements of any statute applicable to the public entity provided that the private entity has been selected by the institution of higher education pursuant to a solicitation of proposals or qualifications. For the purposes of this section, a public entity shall include the New Jersey Economic Development Authority, and any project undertaken pursuant to subsection a. of this section of which the authority becomes the owner or lessee, or which is situated on land of which the authority becomes the lessee, shall be deemed a "project" under the "New Jersey Economic Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.).

(2) As the carrying out of any project described pursuant to this section constitutes the performance of an essential public function, all projects predominantly used in furtherance of the educational purposes of the institution undertaken pursuant to this section, provided it is owned by or leased to a public entity, non-profit business entity, foreign or domestic, or a business entity wholly owned by such non-profit business entity, shall at all times be exempt from property taxation and special assessments of the State, or any municipality, or other political subdivision of the State and, notwithstanding the provisions of section 15 of P.L.1974, c.80 (C.34:1B-15), section 2 of P.L.1977, c.272 (C.54:4-2.2b), or any other section of law to the contrary, shall not be required to make payments in lieu of taxes. The land upon which the project is located shall also at all times be exempt from property taxation. Further, the project and land upon which the project is located shall not be subject to the provisions of section 1 of P.L.1984, c.176 (C.54:4-1.10) regarding the tax liability of private parties conducting for profit activities on tax exempt land, or section 1 of P.L.1949, c.177 (C.54:4-2.3) regarding the taxation of leasehold interests in exempt property that are held by nonexempt parties.

c. Each worker employed in the construction, rehabilitation, or building maintenance services of facilities by a private entity that has entered into a public-private partnership agreement with a State or county college pursuant to subsection a. of this section shall be paid not less than the prevailing wage rate for the worker's craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

d. (1) All construction projects under a public-private partnership agreement entered into pursuant to this section shall contain a project labor agreement. The project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in a manner that to the greatest extent possible enhances employment opportunities for individuals residing in the county of the project's location. Further, the general contractor, construction manager, design-build team, or subcontractor for a construction project proposed in accordance with this paragraph shall be registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified by the Division of Property Management and Construction to perform work on a public-private partnership higher education project. All construction projects proposed in accordance with this paragraph shall be submitted to the New Jersey Economic Development Authority for its review and approval and, when practicable, are encouraged to adhere to the Leadership in Energy and Environmental Design Green Building Rating System as adopted by the United States Green Building Council.

(2) Where no public fund has been established for the financing of a public improvement, the chief financial officer of the public owner shall require the private entity for whom the public improvement is being made to post, or cause to be posted, a bond guaranteeing prompt payment of moneys due to the contractor, his or her subcontractors and to all persons furnishing labor or materials to the contractor or his or her subcontractors in the prosecution of the work on the public improvement.

e. A general contractor, construction manager, design-build team, or subcontractor shall be registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified by the Division of Property Management and Construction to perform work on a public-private partnership higher education project.

f. (1) On or before August 1, 2015, all projects proposed in accordance with this section shall be submitted to the New Jersey Economic Development Authority for the authority's review and approval; except that in the case of projects proposed in accordance with paragraph (2) of subsection a. of this section, all projects shall be submitted on or before August 1, 2016. The projects are encouraged, when practicable, to adhere to the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6). Any application that is deemed to be incomplete on August 2, 2015, or on August 2, 2016 in the case of an application submitted pursuant to paragraph (2) of subsection a. of this section, shall not be eligible for consideration.

(2) (a) In order for an application to be complete and considered by the authority, the application shall include, but not be limited to: (i) a public-private partnership agreement between the State or county college and the private developer; (ii) a full description of the project, including a description of any agreement for the lease of a revenue-producing facility related to the project; (iii) the estimated costs and financial documentation for the project; (iv) a timetable for completion of the project extending no more than five years after consideration and approval; and (v) any other requirements that the authority deems appropriate or necessary.

(b) As part of the estimated costs and financial documentation for the project, the application shall contain a long-range maintenance plan and shall specify the expenditures that qualify as an appropriate investment in maintenance. The long-range maintenance plan shall be approved by the authority pursuant to regulations promulgated by the authority that reflect national building maintenance standards and other appropriate building maintenance benchmarks. All contracts to implement a long-range maintenance plan pursuant to this paragraph shall contain a project labor agreement. The project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in a manner that to the greatest extent possible enhances employment opportunities for individuals residing in the county of the project's location.

(3) The authority shall review all completed applications, and request additional information as is needed to make a complete assessment of the project. No project shall be undertaken until final approval has been granted by the authority; provided, however, that the authority shall retain the right to revoke approval if it determines that the project has deviated from the plan submitted pursuant to paragraph (2) of this subsection.

(4) The authority may promulgate any rules and regulations necessary to implement this subsection, including provisions for fees to cover administrative costs.

Where no public fund has been established for the financing of a public improvement, the chief financial officer of the public owner shall require the private entity for whom the public improvement is being made to post, or cause to be posted, a bond guaranteeing prompt payment of moneys due to the contractor, his or her subcontractors and to all persons furnishing labor or materials to the contractor or his or her subcontractors in the prosecution of the work on the public improvement.

g. The provisions of P.L.2009, c.136 (C.52:18-42 et al.) shall not apply to any project carried out pursuant to this section.

(cf: P.L.2013, c.161, s.26)

6. Section 7 of P.L.1995, c.400 (C.18A:64E-18) is amended to read as follows:

7. The board of trustees of the university shall have general supervision over and be vested with the conduct, control, management and administration of the university. It shall have the authority and responsibility to:

a. Adopt, use, and modify, as it deems appropriate, its corporate seal;

b. Determine the policies for the organization, administration and development of the university;

c. Approve the establishment of new educational programs and the discontinuance of existing educational programs at the university consistent with the university's programmatic mission as authorized by the State Board of Higher Education prior to July 1, 1994, or authorized thereafter in accordance with the provisions of the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et seq.);

d. Study the educational and financial needs of the university, annually acquaint the Governor and Legislature with the condition of the university, and prepare and submit an annual request for appropriation to the Division of Budget and Accounting in the Department of the Treasury in accordance with law;

e. Disburse all moneys appropriated to the university by the Legislature and thereafter provided the university and disburse all moneys received from tuition, fees, auxiliary services and other sources;

f. Direct and control expenditures and transfers of funds appropriated and provided by the State through its legislative and executive branches and as to funds received from other sources, direct and control expenditures and transfers in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions. The university shall annually report changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the Department of the Treasury. All accounts of the university shall be subject to audit by the State at any time;

g. Appoint and fix the compensation and term of office of a president of the university, who, as the executive officer of the university, shall be assigned that authority and delegated those duties that the board, consistent with law and duly adopted bylaws of the board, determines are in keeping with the purposes of this act and in the best interests of the university;

h. Consistent with the provisions of its budget, this act and any and all controlling collective bargaining agreements, have the power, upon nomination or recommendation of the president, to appoint, remove, promote and transfer all other officers, agents, or employees which may be required to carry out the provisions of this act and prescribe qualifications for those positions, and assign requisite duties and determine and fix respective compensation for those positions in accordance with duly adopted salary program parameters;

i. Subject to provision for impartial binding dispute resolution through collective bargaining or as provided by university policy and further subject to and limited by any law to the contrary, have final authority to determine controversies and disputes concerning tenure, personnel matters and other issues involving the university arising under Title 18A of the New Jersey Statutes. Any hearings conducted by the board pursuant to this section shall conform to the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The final administrative decision of the board, in any action enabled hereunder, is appealable to the Superior Court, Appellate Division;

j. Borrow money for the needs of the university, as deemed requisite by the board, in such amounts, for such time and upon such terms as may be determined by the board; provided that no such borrowing shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit, or be payable out of property or funds, other than moneys appropriated for that purpose, of the State;

k. Purchase, lease, acquire by gifts, condemnation or otherwise, manage, use, control, encumber and dispose of property, or any interest therein, whether real, personal or mixed, including, but not limited to, all buildings and grounds, as necessary or deemed desirable for university purposes.

(1) Employ architects and engineers to plan buildings and other campus facilities; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for the equipment thereof; and supervise that construction;

(2) Accept from any government or governmental department, agency or other public or private body or from any other source grants or contributions of money or property which the board may use for or in aid of any of its purposes;

(3) Adopt standing operating rules and procedures for the purchase of all properties, whether real, personal or mixed and including all equipment, materials and supplies and for the purchase of all services. These rules and procedures shall include public competitive bidding, where the sum to be expended exceeds **[**$17,700**]** $100,000 or the amount determined by the Governor as provided herein and the awarding of contracts to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the university, price and other factors considered . This public bidding process shall not be required in those exceptions created by the board of trustees of the university, which shall be in substance those exceptions contained in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10). Neither shall public bidding be required for the supplying of any product or the rendering of any service by a public utility, subject to the jurisdiction of the Board of Public Utilities of the State and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any products to be supplied or services to be rendered as are filed with that board. Commencing January 1, **[**1997**]** 2020 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this paragraph in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the university of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported.

This subsection shall not prevent the university from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires or the exigency of the university's service will not admit of such advertisement. In such case, the university shall ,by resolution passed by an affirmative vote of its board of trustees, declare the exigency or emergency to exist, remediate as practicable and maintain appropriate records as to the reason for such awards, reporting as soon as practicable thereafter to its board of trustees on all such purchases, the amounts and the reasons therefor;

(4) Manage and maintain, and provide for the payment of all charges on and expenses in respect of, all properties utilized by the university;

(5) Invest certain moneys in such obligations, securities and other investments as the board shall deem prudent consistent with the purpose and provisions of this act and in accordance with State and federal law, as follows:

Investment in not for profit corporations or for profit corporations organized and operated pursuant to the provisions of subsection s. of this section may utilize income realized from the sale or licensing of intellectual property as well as the reinvestment of earnings on intellectual property. Investment in not for profit corporations may also utilize income from overhead grant fund recovery as permitted by federal law as well as other university funds except those specified in paragraph 4 of subsection s. of this section;

(6) Exercise the right of eminent domain, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), to acquire any property or interest therein;

l. Fix and determine tuition rates, and other fees to be paid by students, after reasonable notice and public hearing pursuant to the provisions of the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et seq.);

m. Grant diplomas, certificates or degrees;

n. Enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm or corporation which are deemed necessary or advisable by the board for carrying out the provisions of this act. A contract or agreement pursuant to this subsection may require a municipality to undertake obligations and duties to be performed subsequent to the expiration of the term of office of the elected governing body of the municipality which initially entered into or approved the contract or agreement, and the obligations and duties so incurred by the municipality shall be binding and of full force and effect, notwithstanding that the term of office of the elected members of the governing body of the municipality which initially entered into or approved that contract or agreement, shall have expired.

Pursuant to this subsection, the board of trustees may procure and enter into contracts for any type of insurance and indemnify against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employees' liability, against any act of any member, officer, employee or servant of the university, whether part-time, full-time, compensated or non-compensated in the performance of the duties of his office or employment or any other insurable risk. In addition, the university shall carry its own liability insurance or maintain an actuarially sound program of self-insurance. Any joint venture, subsidiary corporation, or partnership or other jural entity entered into or owned wholly or in part by the university shall maintain insurance or reserves in such amounts as are determined by an actuary to be sufficient to meet its actual or accrued claims;

o. Adopt bylaws and amend the same as deemed necessary from time to time and make, promulgate and modify at its pleasure such rules, regulations and orders, not inconsistent with the provisions of this act, as are deemed necessary and proper for the administration and operation of the university and to implement the provisions of this act;

p. Develop an institutional plan and determine the schools, departments, programs and degree levels to be offered by the university consistent with that plan and the university's programmatic mission as authorized by the State Board of Higher Education prior to July 1, 1994, or authorized thereafter in accordance with the provisions of the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et seq.);

q. Function as a public employer under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), appointing its chief spokesperson and continuing to conduct all labor negotiations with the participation of the Governor's Office of Employee Relations;

r. Continue to retain independent counsel;

s. Participate as the general partner or as a limited partner, either directly or through a subsidiary corporation created by the university, in limited partnerships, general partnerships, or joint ventures engaged in the development, manufacture, or marketing of products, technology, scientific information or services and create or form for profit or not for profit corporations to engage in such activities; provided that any such participation shall be consistent with the mission of the university and the board shall have determined that such participation is prudent.

(1) The decision to participate in any of the activities described in this subsection, including the creation or formation of for profit or not for profit corporations, shall be articulated in the minutes of the board of trustees meeting in which action was approved. A true copy of the minutes of that meeting shall be delivered to the Governor. No such action shall take effect until 30 days, Saturdays, Sundays and public holidays excepted, after the copy of the minutes shall have been delivered to the Governor. If, within the 30-day period, the Governor returns the minutes of the meeting with a veto of the action taken by the board, the action taken by the board shall be null and void and of no effect.

(2) Any actions taken by the university pursuant to this subsection shall be in conformity with the university's policy on conflicts of interest and the provisions of P.L.1971, c.182 (C.52:13D-12 et seq.), which shall apply to the university, its employees and officers.

(3) Nothing herein shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds of the State.

(4) Funds directly appropriated to the university from the State or derived from the university's academic programs shall not be utilized by the for profit or not for profit corporations organized and operated pursuant to this subsection in the development, manufacture or marketing of products, technology or scientific information.

(5) Employees of any joint venture, subsidiary corporation, partnership or other jural entity entered into or owned wholly or in part by the university shall not be deemed public employees.

(6) A joint venture, subsidiary corporation, partnership or other jural entity entered into or owned wholly or in part by the university shall not be deemed an instrumentality of the State of New Jersey.

(7) Income realized by the university as a result of participation in the development, manufacture or marketing of products, technology, or scientific information may be invested, reinvested or retained by the board in accordance with the provisions of this act and any other State or federal law for use in furtherance of any of the purposes of this act or of other applicable statutes.

(8) The board shall include in its annual report to the State Treasurer, the operation of all joint ventures, subsidiary corporations, partnerships or other jural entities entered into or owned wholly or in part by the university;

t. Create, operate, or participate in the operation of such auxiliary organizations as permitted by law which the board deems prudent and which are in keeping with the educational and public service mission of the university; and

u. Sue and be sued in its own name.

(cf: P.L.1995, c.400, s.7)

7. Section 41 of P.L.2012, c.45 (C.18A:64M-9) is amended to read as follows:

41. The board of trustees of Rowan University shall have the general supervision over and be vested with the conduct of the university. It shall have the power and duty, subject to the approval of the Rowan University-Rutgers Camden Board of Governors which shall be subject to the limitations set forth in section 34 of P.L.2012, c.45 (C.18A:64M-38), to:

a. Adopt and use a corporate seal;

b. Determine the educational curriculum and program of the university;

c. Determine policies for the organization, administration, and development of the university;

d. Study the educational and financial needs of the university, annually acquaint the Governor and Legislature with the condition of the university, and prepare and submit an annual request for appropriation to the Division of Budget and Accounting in the Department of the Treasury in accordance with law;

e. Disburse all moneys appropriated to the university by the Legislature and all moneys received from tuition, fees, auxiliary services and other sources;

f. Direct and control expenditures and transfers of funds appropriated to the university in accordance with the provisions of the State budget and appropriation acts of the Legislature, and, as to funds received from other sources, direct and control expenditures and transfers in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, reporting changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the Department of the Treasury. All accounts of the university shall be subject to audit by the State at any time;

g. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint and fix the compensation and term of office of a president of the university who shall be the executive officer of the university and an ex officio member of the board of trustees, without vote, and shall serve at the pleasure of the board of trustees;

h. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, upon nomination of the president, such deans and other members of the academic, administrative, and teaching staffs as shall be required and fix their compensation and terms of employment;

i. Consistent with the provisions of its budget, this act and any and all controlling collective bargaining agreements, have the power, upon nomination or recommendation of the president, to appoint, remove, promote and transfer all other officers, agents, or employees which may be required to carry out the provisions of this act and prescribe qualifications for those positions, and assign requisite duties and determine and fix respective compensation for those positions in accordance with duly adopted salary program parameters;

j. Grant diplomas, certificates or degrees;

k. Enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm or corporation which are deemed necessary or advisable by the board for carrying out the provisions of this act. A contract or agreement pursuant to this subsection may require a municipality to undertake obligations and duties to be performed subsequent to the expiration of the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, and the obligations and duties so incurred by such municipality shall be binding and of full force and effect, notwithstanding that the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, shall have expired;

l. Exercise the right of eminent domain, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), to acquire any property or interest therein;

m. Adopt, after consultation with the president and faculty, bylaws and make and promulgate such rules, regulations, and orders, not inconsistent with the provisions of this act as are necessary and proper for the administration and operation of the university and the carrying out of its purposes;

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

o. Fix and determine tuition rates and other fees to be paid by students;

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

q. Acquire, by gift, purchase, condemnation or otherwise, own, lease, dispose of, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for university purposes;

r. Employ architects to plan buildings; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for equipment; and supervise the construction of buildings;

s. Manage and maintain, and provide for the payment of all charges on and expenses in respect of, all properties utilized by the university;

t. Borrow money and to secure the same by a mortgage on its property or any part thereof, and to enter into any credit agreement for the needs of the university and projects of the Rowan University-Rutgers Camden Board of Governors, as deemed requisite by the board, in such amounts and for such time and upon such terms as may be determined by the board, provided that no such borrowing shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds, other than moneys appropriated for that purpose, of the State;

u. Authorize any new program, educational department or school consistent with the programmatic mission of the institution or approved by the Secretary of Higher Education;

v. Adopt standing operating rules and procedures for the purchase of all equipment, materials, supplies and services; however, no contract on behalf of the university shall be entered into for the purchase of services, materials, equipment and supplies, for the performance of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds **[**$30,700**]** $100,000 or the amount determined by the Governor as provided herein, unless the university shall first publicly advertise for bids and shall award the contract to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the university, price and other factors considered. Such advertising shall not be required in those exceptions created by the board of trustees of the university, which shall be in substance those exceptions contained in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10) and section 5 of P.L.1986, c.43 (C.18A:64-56) or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities of this State and tariffs and schedules of the charges made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board. Commencing July 1, **[**2013**]** 2020 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this paragraph in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the university of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported.

This subsection shall not prevent the university from having any work performed by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires or the exigency of the university's service will not admit of such advertisement. In such case, the university shall, by resolution passed by the affirmative vote of its board of trustees, declare the exigency or emergency to exist, and set forth in the resolution the nature and approximate amount to be expended; shall maintain appropriate records as to the reason for such awards; and shall report regularly to its board of trustees on all such purchases, the amounts and the reasons therefor;

w. Invest certain moneys in such obligations, securities and other investments as the board shall deem prudent, consistent with the purposes and provisions of this act and in accordance with State and federal law, as follows:

Investment in not-for-profit corporations or for-profit corporations organized and operated pursuant to the provisions of subsection x. of this section may utilize income realized from the sale or licensing of intellectual property as well as the reinvestment of earnings on intellectual property. Investment in not-for-profit corporations may also utilize income from the operation of faculty practice plans of the university and income from overhead grant fund recovery as permitted by federal law as well as other university funds except those specified in paragraph 5 of subsection x. of this section;

x. (1) Participate as the general partner or as a limited partner, either directly or through a subsidiary corporation created by the university, in limited partnerships, general partnerships, or joint ventures engaged in the development, manufacture, or marketing of products, technology, scientific information or health care services and create or form for-profit or not-for-profit corporations to engage in such activities; provided that any such participation shall be consistent with the mission of the university and the board shall have determined that such participation is prudent;

(2) The decision to participate in any activity described in paragraph (1) of this subsection, including the creation or formation of for-profit or not-for-profit corporations, shall be articulated in the minutes of the board of trustees meeting in which the action was approved;

(3) The provisions of P.L.1971, c.182 (C.52:13D-12 et seq.) shall continue to apply to the university, its employees, and officers;

(4) Nothing herein shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds of the State;

(5) Funds directly appropriated to the university from the State or derived from the university's academic programs or derived from payment for coverage provided by the self insurance fund for claims accruing prior to the effective date of this act shall not be utilized by the for-profit or not-for-profit corporations organized and operated pursuant to this subsection in the development, manufacture, or marketing of products, technology or scientific information;

(6) Employees of any joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed public employees;

(7) A joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed an instrumentality of the State of New Jersey;

(8) Income realized by the university as a result of participation in the development, manufacture, or marketing of products, technology, or scientific information may be invested or reinvested pursuant to subsection w. of this section or any other provision of this act or State or federal law or retained by the board for use in furtherance of any of the purposes of this act or of other applicable statutes;

(9) The board shall annually report to the State Treasurer on the operation of all joint ventures, subsidiary corporations, partnerships, or such other jural entities entered into or owned wholly or in part by the university;

y. Sue and be sued in its own name;

z. Retain independent counsel including representation by the Attorney General in accordance with subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6);

aa. (1) Procure and enter into contracts for any type of insurance and indemnify against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employees' liability, against any act of any member, officer, employee or servant of the university, whether part-time, full-time, compensated or non-compensated in the performance of the duties of his office or employment or any other insurable risk. In addition, the university shall carry its own liability insurance or maintain an actuarially sound program of self insurance. Any joint venture, subsidiary corporation, or partnership or such other jural entity entered into or owned wholly or in part by the university shall carry insurance or maintain reserves in such amounts as are determined by an actuary to be sufficient to meet its actual or accrued claims;

(2) Moneys in the fund known as the Self-Insurance Trust Fund administered by the State Treasurer shall continue to be available to the university solely to indemnify and defend claims against the university and its employees, officers and servants but only to the extent that the university has elected on behalf of itself and its employees to obtain representation from the Attorney General pursuant to subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6) and such entity or individuals would have been entitled to defense and indemnification pursuant to the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., as a State entity or State employee but for the provision of subsection z. of this section. Any expenditure of such funds shall be made only in accordance with the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., including but not limited to the provisions of chapters 10, 10A and 11 of Title 59 of the New Jersey Statutes. Nothing herein shall be construed to authorize the use of the Self-Insurance Trust Fund to indemnify or insure in any way, directly or indirectly the activities of any joint venture, partnership or corporation entered into or created by the university pursuant to subsection x. of this section;

bb. Create auxiliary organizations subject to the provisions of P.L.1982, c.16 (C.18A:64-26 et seq.);

cc. Adopt a code of ethics that complies with the requirements of all statutes applicable to the institution, including, but not limited, to the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et al.), the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.), regulations of the State Ethics Commission, and any applicable executive orders; and

dd. Establish a procedure for the confidential, anonymous submission of employee concerns regarding alleged wrongdoing at the university.

(cf: P.L.2013, c.227, s.2)

8. Section 9 of P.L.2017, c.178 (C.18A:64N-9) is amended to read as follows:

9. The board of trustees of Montclair State University shall have the general supervision over and be vested with the conduct of the university. It shall have the power and duty to:

a. Adopt and use a corporate seal;

b. Determine the educational curriculum and program of the university;

c. Determine policies for the organization, administration, and development of the university;

d. Study the educational and financial needs of the university, annually acquaint the Governor and Legislature with the condition of the university, and prepare and submit an annual request for appropriation to the Division of Budget and Accounting in the Department of the Treasury in accordance with law;

e. Disburse all moneys appropriated to the university by the Legislature and all moneys received from tuition, fees, auxiliary services and other sources;

f. Direct and control expenditures and transfers of funds appropriated to the university in accordance with the provisions of the State budget and appropriation acts of the Legislature, and, as to funds received from other sources, direct and control expenditures and transfers in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, reporting changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the Department of the Treasury. All accounts of the university shall be subject to audit by the State at any time;

g. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint and fix the compensation and term of office of a president of the university who shall be the executive officer of the university and an ex officio member of the board of trustees, without vote, and shall serve at the pleasure of the board of trustees;

h. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, upon nomination of the president, such deans and other members of the academic, administrative, and teaching staffs as shall be required and fix their compensation and terms of employment;

i. Consistent with the provisions of its budget, this act and any and all controlling collective bargaining agreements, have the power, upon nomination or recommendation of the president, to appoint, remove, promote and transfer all other officers, agents, or employees which may be required to carry out the provisions of this act and prescribe qualifications for those positions, and assign requisite duties and determine and fix respective compensation for those positions in accordance with duly adopted salary program parameters;

j. Grant diplomas, certificates or degrees;

k. Enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm or corporation which are deemed necessary or advisable by the board for carrying out the provisions of this act. A contract or agreement pursuant to this subsection may require a municipality to undertake obligations and duties to be performed subsequent to the expiration of the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, and the obligations and duties so incurred by such municipality shall be binding and of full force and effect, notwithstanding that the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, shall have expired;

l. Exercise the right of eminent domain, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), to acquire any property or interest therein;

m. Adopt, after consultation with the president and faculty, bylaws and make and promulgate such rules, regulations, and orders, not inconsistent with the provisions of this act as are necessary and proper for the administration and operation of the university and the carrying out of its purposes;

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

o. Fix and determine tuition rates and other fees to be paid by students;

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

q. Acquire, by gift, purchase, condemnation or otherwise, own, lease, dispose of, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for university purposes;

r. Employ architects to plan buildings; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for equipment; and supervise the construction of buildings;

s. Manage and maintain, and provide for the payment of all charges on and expenses in respect of, all properties utilized by the university;

t. Borrow money and to secure the same by a mortgage on its property or any part thereof, and to enter into any credit agreement for the needs of the university, as deemed requisite by the board, in such amounts and for such time and upon such terms as may be determined by the board, provided that no such borrowing shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds, other than moneys appropriated for that purpose, of the State;

u. Authorize any new program, educational department or school consistent with the programmatic mission of the institution or approved by the Secretary of Higher Education;

v. Adopt standing operating rules and procedures for the purchase of all equipment, materials, supplies and services; however, no contract on behalf of the university shall be entered into for the purchase of services, materials, equipment and supplies, for the performance of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds **[**$33,000**]** $100,000 or the amount determined by the Governor as provided herein, unless the university shall first publicly advertise for bids and shall award the contract to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the university, price and other factors considered. Such advertising shall not be required in those exceptions created by the board of trustees of the university, which shall be in substance those exceptions contained in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10) and section 5 of P.L.1986, c.43 (C.18A:64-56) or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities of this State and tariffs and schedules of the charges made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board. Commencing July 1, **[**2017**]** 2020 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this paragraph in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the university of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported.

This subsection shall not prevent the university from having any work performed by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires or the exigency of the university's service will not admit of such advertisement. In such case, the university shall, by resolution passed by the affirmative vote of its board of trustees, declare the exigency or emergency to exist, and set forth in the resolution the nature and approximate amount to be expended; shall maintain appropriate records as to the reason for such awards; and shall report regularly to its board of trustees on all such purchases, the amounts and the reasons therefor;

w. Invest certain moneys in such obligations, securities and other investments as the board shall deem prudent, consistent with the purposes and provisions of this act and in accordance with State and federal law, as follows:

Investment in not-for-profit corporations or for-profit corporations organized and operated pursuant to the provisions of subsection x. of this section may utilize income realized from the sale or licensing of intellectual property as well as the reinvestment of earnings on intellectual property. Investment in not-for-profit corporations may also utilize income from overhead grant fund recovery as permitted by federal law as well as other university funds except those specified in paragraph 5 of subsection x. of this section;

x. (1) Participate as the general partner or as a limited partner, either directly or through a subsidiary corporation created by the university, in limited partnerships, general partnerships, or joint ventures engaged in the development, manufacture, or marketing of products, technology, scientific information or services and create or form for-profit or not-for-profit corporations to engage in such activities; provided that any such participation shall be consistent with the mission of the university and the board shall have determined that such participation is prudent;

(2) The decision to participate in any activity described in paragraph (1) of this subsection, including the creation or formation of for-profit or not-for-profit corporations, shall be articulated in the minutes of the board of trustees meeting in which the action was approved;

(3) The provisions of P.L.1971, c.182 (C.52:13D-12 et seq.) shall continue to apply to the university, its employees, and officers;

(4) Nothing herein shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds of the State;

(5) Funds directly appropriated to the university from the State or derived from the university's academic programs shall not be utilized by the for-profit or not-for-profit corporations organized and operated pursuant to this subsection in the development, manufacture, or marketing of products, technology or scientific information;

(6) Employees of any joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed public employees;

(7) A joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed an instrumentality of the State of New Jersey;

(8) Income realized by the university as a result of participation in the development, manufacture, or marketing of products, technology, or scientific information may be invested or reinvested pursuant to subsection w. of this section or any other provision of this act or State or federal law or retained by the board for use in furtherance of any of the purposes of this act or of other applicable statutes;

(9) The board shall annually report to the State Treasurer on the operation of all joint ventures, subsidiary corporations, partnerships, or such other jural entities entered into or owned wholly or in part by the university;

y. Sue and be sued in its own name;

z. Retain independent counsel including representation by the Attorney General in accordance with subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6);

aa. (1) Procure and enter into contracts for any type of insurance and indemnify against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employees' liability, against any act of any member, officer, employee or servant of the university, whether part-time, full-time, compensated or non-compensated in the performance of the duties of his office or employment or any other insurable risk. In addition, the university shall carry its own liability insurance or maintain an actuarially sound program of self insurance. Any joint venture, subsidiary corporation, or partnership or such other jural entity entered into or owned wholly or in part by the university shall carry insurance or maintain reserves in such amounts as are determined by an actuary to be sufficient to meet its actual or accrued claims;

(2) Moneys in the fund known as the Self-Insurance Trust Fund administered by the State Treasurer shall continue to be available to the university solely to indemnify and defend claims against the university and its employees, officers and servants but only to the extent that the university has elected on behalf of itself and its employees to obtain representation from the Attorney General pursuant to subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6) and such entity or individuals would have been entitled to defense and indemnification pursuant to the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., as a State entity or State employee but for the provision of subsection z. of this section. Any expenditure of such funds shall be made only in accordance with the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., including but not limited to the provisions of chapters 10, 10A and 11 of Title 59 of the New Jersey Statutes. Nothing herein shall be construed to authorize the use of the Self-Insurance Trust Fund to indemnify or insure in any way, directly or indirectly the activities of any joint venture, partnership or corporation entered into or created by the university pursuant to subsection x. of this section;

bb. Create auxiliary organizations subject to the provisions of P.L.1982, c.16 (C.18A:64-26 et seq.);

cc. Adopt a code of ethics that complies with the requirements of all statutes applicable to the institution, including, but not limited, to the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et al.), the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.), regulations of the State Ethics Commission, and any applicable executive orders; and

dd. Establish a procedure for the confidential, anonymous submission of employee concerns regarding alleged wrongdoing at the university.

(cf: P.L.2017, c.178, s.9)

9. Section 60 of P.L.2001, c.137 (C.18A:73-43.4) is amended to read as follows:

60. a. The State Treasurer shall disburse to Thomas Edison State College the amount of funds appropriated in the direct State services portion of the annual appropriation for the State Library. The funds shall be paid to the college in four equal installments beginning on July 1 of each year. Thomas Edison State College shall deposit all such funds into separate accounts to be used solely for State Library purposes.

b. The State Treasurer shall disburse to Thomas Edison State College the amount of funds appropriated in the State aid portion of the annual appropriation for the State Library. The funds shall be paid to the college on a drawdown schedule to be prepared by Thomas Edison State College and approved by the Office of Management and Budget. Thomas Edison State College shall deposit all such funds into separate accounts to be used solely for State Library purposes.

c. Each year, Thomas Edison State College shall prepare and submit to the Office of Management and Budget in the Department of the Treasury a proposed budget for the operation of the State Library during the following fiscal year at the same time that Thomas Edison State College prepares and submits to the Secretary of State for submission to Office of Management and Budget a proposed budget for the operation of the college during the following fiscal year.

d. Funds disbursed to Thomas Edison State College for the operations of the State Library, although maintained in separated accounts, shall be considered college funds for all purposes related to purchasing**[**, including for the purposes of the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.)**]**.

e. Thomas Edison State College is authorized to accept donations on behalf of the State Library and those donated funds shall be maintained in separate accounts to be used solely for State Library purposes.

f. Thomas Edison State College shall be entitled to use, solely for State Library purposes, the interest income from any public or private fund established to support the programs and services of the State Library to the extent permitted by law and the terms of the fund.

g. Thomas Edison State College shall conduct an independent financial audit of the State Library accounts each year, including accounts that receive federal funds, and shall submit copies of the same to the Department of the Treasury, with the cost of such audits funded from the direct State services portion of the annual appropriation for the State Library.

h. Thomas Edison State College shall be responsible for the maintenance of all financial records that involve the operations of the State Library, including those records that relate to federal funds.

(cf: P.L.2001, c.137, s.60)

10. Section 3 of P.L.1969, c.104 (C.52:25-16.1) is amended to read as follows:

3. The Director of the Division of Purchase and Property may, at the director's discretion, include, in any such contract or contracts on behalf of the State, a provision for the purchase of such materials, supplies, equipment or services by any local contracting unit from such contractor or contractors. Such purchase may be effectuated either as an outright purchase or by installment, lease or rental, so long as the vendor offers financing at an interest rate that is equal to or lower than the State line of credit. The local contracting unit shall have sole responsibility for any payment due the vendor for any such purchase. All purchases shall be subject to audit and inspection by the local contracting unit for which made. The local contracting unit shall file such reports as the Director of the Division of Purchase and Property may require setting forth the expenditure on such contracts. For the purposes of this section, "local contracting unit" means a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes and any public agency subject to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., **[**the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.),**]** or the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.).

(cf: P.L.1999, c.440, s.91)

11. (New section) Notwithstanding any of the provisions of the "New Jersey Contractual Liability Act" (N.J.S.59:13-1 et seq.) to the contrary, contract claims and suits against a State college or university shall be governed by that act.

12. The following sections are repealed:

Sections 1, 3 and 4, 6 through 28, and 33 of P.L.1986, c.43 (C.18A:64-52, C.18A:64-54 and C.18A:64-55, C.18A:64-57 through C.18A:64-79, and C.18A:64-84);

Section 2 of P.L.1992, c.61 (C.18A:64-76.1);

P.L.2013, c.147 (C.18A:64-76.2 et seq.).

13. This act shall take effect on the 60th day after enactment and apply to contracts for which bids are solicited on and after the effective date.

STATEMENT

This bill alters the requirements pursuant to which the State colleges and universities purchase goods and services and construct buildings in order to align the requirements governing these institutions of higher education with the contracting standards governing public research universities in the State. The bill will allow the State colleges and universities the ability to follow the more flexible requirements of the contracting process which apply to the public research universities.

Under current law, the contracting standards for the State colleges and universities are found in the “State College Contracts Law,” P.L.1986, c.43 (C.18A:64-52 et seq.). This bill repeals various sections of that law that are inconsistent with the contracting requirements imposed on the public research universities.

In order to have the contracting provisions for the State colleges and universities mirror the provisions which apply to the public research universities, the bill amends the section of law setting forth the powers and duties of a board of trustees of a State college or university, to grant the board the general power to adopt standing operating rules and procedures for the purchase of all equipment, materials, supplies, and services. The power to adopt standing operating rules and procedures is limited, however, by the requirement that no contract may be entered into for the purchase of services, materials, equipment and supplies, for the performance of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds a specified bid threshold, unless the college or university first publicly advertises for bids and awards the contract to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the college or university, price and other factors considered. The college or university is permitted to create exceptions to the public advertising requirement, but those exceptions must be in substance those exceptions found currently in the “State College Contracts Law” and sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10).

The bill also increases the bid threshold for public bidding to $100,000 for all four-year public institutions of higher education in the State, the State colleges and universities as well as the public research universities.