

[First Reprint]

SENATE, No. 2572

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 15, 2020

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Concerns requirements for local purchasing agents.

CURRENT VERSION OF TEXT

As reported by the Senate Community and Urban Affairs Committee on July 16, 2020, with amendments.



(Sponsorship Updated As Of: 2/17/2021)

1 AN ACT concerning local purchasing agents and amending
2 P.L.1971, c.198.

3

4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 9 of P.L.1971, c.198 (C.40A:11-9) is amended to
8 read as follows:

9 9. a. The governing body of any contracting unit may by
10 ordinance, in the case of a municipality, by ordinance or resolution,
11 as the case may be, in the case of a county, or by resolution in all
12 other cases, designate an individual to serve as the contracting unit's
13 purchasing agent. The individual designated as the purchasing
14 agent pursuant to this subsection shall be assigned the authority,
15 responsibility, and accountability for the purchasing activity for the
16 contracting unit, to prepare public advertising for bids and to
17 receive bids for the provision or performance of goods or services
18 on behalf of the contracting unit and to award contracts permitted
19 pursuant to subsection a. of section 3 of P.L.1971, c.198 (C.40A:11-
20 3) in the name of the contracting unit, and conduct any activities as
21 may be necessary or appropriate to the purchasing function of the
22 contracting unit as its contracting agent. The individual designated
23 to serve as the purchasing agent of a contracting unit pursuant to
24 this subsection shall possess a qualified purchasing agent certificate
25 pursuant to this section. The individual designated as the
26 purchasing agent pursuant to this subsection may be a part-time or
27 full-time employee of the contracting unit, an independent
28 contractor, or an individual employed by another contracting unit
29 through a shared services agreement. The governing body of a
30 contracting unit may designate its municipal finance officer, county
31 finance officer, or county purchasing ¹**[officer]** official¹ , as the
32 case may be, to serve as the contracting unit's purchasing agent
33 only if the person is a certified municipal finance officer, certified
34 county finance officer, or certified county purchasing ¹**[officer]**
35 official, meets the criteria established pursuant to subsection b. of
36 this section¹ , and the person's responsibilities include the
37 performance of the day to day work required of a purchasing agent.

38 b. The Director of the Division of Local Government Services,
39 after consultation with the Commissioner of Education, shall
40 establish criteria to qualify individuals who have completed
41 appropriate training and possess such purchasing experience as
42 deemed necessary to serve as a purchasing agent, and, when
43 determined to be necessary by the director, have passed an
44 examination administered by the director pursuant to this section.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCU committee amendments adopted July 16, 2020.

1 The criteria established by the director shall include, but are not
2 limited to, the following:

- 3 (1) is a citizen of the United States;
4 (2) is of good moral character;
5 (3) is a high school graduate or equivalent;
6 (4) has at least two years of higher education, and two years of
7 full time governmental experience performing duties relative to
8 those of public procurement provided, however **【, that】** :

9 (a) additional years of experience may be substituted for years
10 of higher education, on a one to one basis, and

11 (b) on and after the effective date of P.L. , c. (C.)
12 (pending before the Legislature as this bill), the criteria shall
13 require at least **‘【four】 two’** years of full time governmental
14 experience performing duties relative to those of public
15 procurement under the direct supervision of a purchasing agent ¹or,
16 in the case of a certified municipal finance officer, certified county
17 finance officer, or certified county purchasing official, two years of
18 full time governmental experience performing duties relative to
19 those of public procurement¹;

20 (5) has successfully received certificates indicating satisfactory
21 completion of a series of training courses in public procurement as
22 determined by the director ¹, pursuant to rules and regulations
23 adopted pursuant to the "Administrative Procedure Act," P.L.1968,
24 c.410 (C.52:14B-1 et seq.),¹ and provided by either the Division of
25 Local Government Services, or, with the approval of the director,
26 by a county college or Rutgers, The State University of New Jersey,
27 all under the supervision of instructors who meet criteria
28 established by the director **‘【. On and after the effective date of**
29 P.L. , c. (C.) (pending before the Legislature as this bill), the
30 series of training courses in public procurement shall comprise, at a
31 minimum, three 30-hour courses in the principles of public
32 purchasing and one 26-hour course in municipal finance
33 administration for purchasing professionals¹;

34 (6) has submitted completed application forms, including proof
35 of education and experience, as set forth in this subsection,
36 accompanied by a fee in the amount of \$150 payable to the State
37 Treasurer, to the Director of the Division of Local Government
38 Services at least 30 days prior to the administration of a State
39 examination;

40 (7) has successfully passed a State examination for a qualified
41 purchasing agent certificate. The director shall hold examinations
42 semi-annually or at such times as the director may deem
43 appropriate. An individual shall be eligible to take the State
44 examination for a qualified purchasing agent certificate without
45 having taken the courses required pursuant to paragraph (5) of this
46 subsection if the individual has been certified by the division as a

1 certified municipal finance officer, a certified county finance
2 officer, or a certified county purchasing **'[officer] official'**¹.

3 The director shall issue a qualified purchasing agent certificate to
4 an individual who passes the examination upon payment to the
5 director of a fee of \$25 which shall be payable to the State
6 Treasurer.

7 c. The criteria established by the director to authorize
8 purchasing agents, pursuant to subsection b. of this section, shall
9 include, but are not limited to, completion of a course in green
10 product purchasing, as established by the director pursuant to
11 regulation. Any person qualified pursuant to subsection b. of this
12 section prior to the establishment of the course in green product
13 purchasing, shall in order to continue to be qualified, take and
14 successfully complete the course within four years from the date the
15 course is established. For the purposes of this subsection and
16 section 2 of P.L.2007, c.332 (C.40A:11-9.1), "green product" means
17 any commodity or service that has a lesser or reduced negative
18 effect on human health and the environment when compared with
19 competing commodities or services. Items considered in this
20 comparison may include, but are not limited to: raw materials
21 acquisition, production, manufacturing, packaging, distribution,
22 reuse, operation, maintenance, disposal, energy efficiency, recycled
23 content resource use, transportation, and durability.

24 d. (1) Renewal of the qualified purchasing agent certification
25 shall be required every three years, subject to the applicant's
26 fulfillment of continuing education requirements, the submission of
27 an application for renewal, and the payment of a renewal fee, all as
28 determined by the director.

29 (2) In the event that an individual holding a qualified purchasing
30 agent certificate allows the certificate to lapse by failing to renew
31 the certificate, the individual shall be required to apply to take the
32 qualifying examination required pursuant to subsection b. of this
33 section and pay a fee as determined by the director, except that
34 when an individual applies within six months of the expiration of
35 the certificate, the application may be made in the same manner as
36 renewal and except that such application may be made in the same
37 manner as a renewal within 12 months of the expiration of the
38 certificate if the director determines that either of the following
39 circumstances prevents a certificate holder from earning the
40 required continuing education units within six months of the
41 expiration of the certificate:

42 (a) a flood, hurricane, superstorm, tornado, or other natural
43 disaster, and a state of emergency has been declared as a result
44 thereof by the Governor; or

45 (b) a medical event or condition.

46 e. (1) An individual who obtained a qualified purchasing
47 agent certificate prior to enactment of P.L.2009, c.166 (C.40A:11-
48 9a et al.) shall be exempt from taking the State qualifying

1 examination, but shall adhere to all requirements for renewal
2 pursuant to subsection d. of this section. If such a qualified
3 purchasing agent certificate expires due to the failure of the holder
4 to renew the certificate as prescribed in subsection d. of this section,
5 that individual shall be required to pass the qualifying examination
6 as provided pursuant to subsection b. of this section in order to be
7 issued a new qualified purchasing agent certificate.

8 (2) An individual who has been certified by the Department of
9 Education as a school business administrator and has performed
10 duties relative to public procurement for at least three years shall be
11 exempt from taking the courses required pursuant to paragraph (5)
12 of subsection b. of this section and the state qualifying examination,
13 and upon application to the director and the payment of the fee
14 imposed pursuant to subsection b. of this section, shall be issued a
15 qualified purchasing agent certificate.

16 f. Those persons who have been performing the duties of a
17 purchasing agent for a contracting unit pursuant to P.L.1971, c.198
18 (C.40A:11-1 et seq.), or school board pursuant to N.J.S.18A:18A-1
19 et seq. for at least three continuous years, prior to the first day of
20 the sixth month following the promulgation of rules and regulations
21 to effectuate the purposes of P.L.2009, c.166 (C.40A:11-9a et al.),
22 and did not possess a qualified purchasing agent certificate at that
23 time, may take the State qualifying examination, if not otherwise
24 exempt under subsection e. of this section, without the courses
25 required in subsection b. of this section.

26 g. Following the appointment of a purchasing agent for a
27 contracting unit pursuant to subsection a. of this section, if the
28 person appointed no longer performs such duties, the governing
29 body or chief executive officer, as appropriate to the form of
30 government, may appoint, for a period not to exceed one year
31 commencing from the date of the vacancy, a person who does not
32 possess a qualified purchasing agent certificate to serve as a
33 temporary purchasing agent. Any person so appointed may, with
34 the approval of the director, be reappointed as a temporary
35 purchasing agent for a maximum of one additional year following
36 the end of the first temporary appointment. No contracting unit
37 shall employ a temporary purchasing agent for more than two
38 consecutive years.

39 h. The director may revoke or suspend a qualified purchasing
40 agent certificate for dishonest practices or willful or intentional
41 failure, neglect, or refusal to comply with the laws relating to
42 procurement, or for other good cause. The governing body,
43 together with the chief executive officer of any contracting unit, or
44 a board of education, may request the director to review the
45 behavior or practices of a person holding a qualified purchasing
46 agent certificate. Prior to taking any adverse action against a
47 person, the director or the director's designee shall convene a
48 hearing, upon due notice, affording the person an opportunity to be

1 heard. If the qualified purchasing agent certificate held by a person
2 serving as a purchasing agent is revoked, the director shall order
3 that person to no longer perform the duties of purchasing agent, and
4 the person shall not be eligible to serve as a purchasing agent or to
5 make application for recertification for a period of five years from
6 the date of revocation.

7 i. The director may adopt and promulgate rules and regulations
8 to effectuate the purposes of P.L.1971, c.198. Notwithstanding any
9 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
10 any such regulations shall be effective immediately upon filing with
11 the Office of Administrative Law and shall be effective for a period
12 not to exceed 365 days and may thereafter be amended, adopted or
13 readopted by the director in accordance with the requirements of
14 P.L.1968, c.410. In order to better manage the workload of
15 implementing the provisions of P.L.1971, c.198, the director may
16 establish a transition process for administering an examination for
17 individuals serving as purchasing agents on the effective date of
18 P.L.1971, c.198, issuing and renewing qualified purchasing agent
19 certificates to eligible individuals, prescribing a schedule by which
20 such certificates will be issued and renewed, and such other matters
21 as the director determines to be necessary to the implementation of
22 P.L.1971, c.198.
23 (cf: P.L.2015, c.95, s.45)

24
25 2. This act shall take effect immediately.