

ASSEMBLY STATE AND LOCAL GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 2644

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2021

The Assembly State and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 2644.

As amended, this bill would revise the “Public School Contracts Law,” (“PSCL”) N.J.S.18A:18A-1 et seq., the “Local Public Contracts Law,” (“LPCL”) P.L.1971, c.198 (C.40A:11-1 et seq.), and current law regarding county library commissions and boards of trustees for regional, municipal or joint public libraries. The bill enhances the ability of boards of education, governing bodies of municipalities, counties, and other local entities, to dispose of certain personal property through private sales.

Currently, a county library commission or a board of trustees for a regional, municipal, or joint public library may purchase certain library materials without advertising for bids. These library materials include: books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, 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. This bill amends the law to allow public libraries to also dispose of those materials without advertising for bids.

The bill further provides that a board of education or governing body of a local governing unit seeking to dispose of certain property with an estimated fair value no less than 15 percent of the bid threshold, but no greater than the actual bid threshold, as defined by the PSCL and LPCL, may sell such property by private sale if the contracting agent, to the extent practicable, obtains at least two competitive offers. Property sold in this manner would go to the party with the highest offer. In addition, the bill would revise the PSCL and the LPCL to allow a school board or local governing body seeking to sell personal property with an estimated fair value which is less than 15 percent of the bid threshold to do so by private sale without advertising for bids or soliciting competitive offers.

As reported by the committee, this bill is identical to Assembly Bill No. 1180, which is also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The amendments provide that if the estimated fair value of the property to be sold by a board of education or other governing body of a local unit is no less than 15 percent of the bid threshold, but no greater than the bid threshold, as defined in the PSCL and LPCL, the governing body would be able to, by resolution, authorize the property to be sold at private sale so long as, if practicable, the contracting agent solicits at least two competitive offers. The amendments would require the property to be sold to the party with the highest offer. The contracting agent would retain the record of the offer solicitation and include a copy of the record with the sale documentation. If the contracting agent determines that soliciting at least two competitive offers would be impracticable, then the amended bill requires this determination, and the associated reasoning, to be memorialized in writing.

Additionally, the amendments revise the PSCL and LPCL to require that if the estimated fair value of property to be sold does not exceed 15 percent of the applicable bid threshold in any one sale, or is either livestock or perishable goods, then the board of education or governing body would be able, by resolution, to authorize the property to be sold at private sale without advertising for bids or soliciting competitive offers. As an alternative option for disposing of property in these circumstances, the bill as amended would authorize the board of education or governing body to donate the property to the United States, the State of New Jersey, another contracting unit, any foreign nation which has diplomatic relations with the United States, any governmental unit in the United States, or a non-profit corporation so long as the property is not used for a political, partisan, sectarian, denominational, or religious purpose. However, the amended bill would expressly prohibit a board of education from donating property used to provide federal or State nonpublic services to nonpublic schools receiving services from the board of education.