LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 4043

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JANUARY 10, 2022

SUMMARY

Synopsis: Raises statutory threshold for certain public bidding, permits bidder disqualification due to prior negative experience, adds exemptions to public bidding requirement under "State College Contracts Law," and establishes process for cooperative pricing system.

Type of Impact: Annual State college and university expenditure reduction.

Agencies Affected: State colleges and universities.

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State College and University Cost Reduction		Indeterminate	

- The Office of Legislative Services (OLS) determines that this bill may result in marginal cost savings for the State colleges and universities. Under the bill, the increased public bid threshold for certain contracts not involving workers paid in accordance with the "New Jersey Prevailing Wage Act" may lead to State colleges and universities advertising for less contracts than would otherwise be the case under current law.

- State colleges and universities may experience marginal cost savings due to the bill's expansion of the subject matter exemptions to the requirement for public advertising and bidding. The OLS determines the savings resulting from the bill would largely be realized in the form of reduced staff time and resources being dedicated to the public advertising and bidding process.

- The bill's provision permitting the governing board of a public institution of higher education to establish a cooperative pricing system may generate marginal cost savings for the public institutions. While lead agencies under the bill would still be subject to undergoing the process for executing a master contract for a particular good or service, participating contracting units

may realize marginal cost savings to the extent that those units would not have to dedicate their own staff time and resources to executing a contract.

BILL DESCRIPTION

This bill makes various changes to the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.). The public bid threshold for State colleges and universities is currently $34,400. Pursuant to the "State College Contracts Law," the threshold is adjusted every two years by the Governor, in consultation with the Department of the Treasury, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in New York and Northeastern New Jersey and the Philadelphia areas, as reported by the United States Department of Labor. This bill raises the threshold to $100,000 for contracts through which workers employed in the performance of the contract are not paid in accordance to the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.). The threshold for contracts through which workers employed in the performance of the contract are paid in accordance to the "New Jersey Prevailing Wage Act" remains unchanged. Both thresholds will continue to be adjusted by the Governor every two years in the same manner as established in current law.

The bill changes the law that enumerates numerous exemptions to the requirement for public advertising and bidding to also include: the rental of space and equipment used for graduation and other events and ceremonies; banking and investment services; energy supply, such as electric and gas, from a third-party supplier; hazardous waste collection and disposal services; supplies and services for the administration of study abroad or remote programs; transportation services; vehicle maintenance; vending services; and medical testing.

The bill also provides that a State college or university may purchase without public advertising for bids if the purchase or contract is to be awarded through a reverse auction for the purchase of utilities and other commodities.

The bill permits a board of trustees of a State college to, by adopting a resolution approved by a majority of the board, disqualify a bidder who would otherwise be determined to be the lowest responsible bidder or the responsible bidder whose bid would otherwise be determined to be most advantageous to the State college as applicable, if the board finds that a board of an institution of higher education in the State has had prior negative experience with the bidder within the past 15 years. The bill establishes a definition of "prior negative experience" for these purposes and sets forth conditions that must be applied if a State college is contemplating a bidder disqualification based on prior negative experience.

The bill amends the definition of "contracts" in the "State College Contracts Law" to include contracts or agreements for the performance of work or the furnishing or hiring of construction. The bill also amends the definition of "information technology" in the law to include computing goods and services, and cloud computing.

The bill provides that the governing board of a public institution of higher education may by resolution establish a cooperative pricing system with the governing boards of other public institutions of higher education. A lead agency will procure goods and services through a cooperative pricing system using a master contract. A master contract is required to be secured in accordance with all applicable State contracting and procurement laws. A participating contracting unit may use the master contract during the contract period to procure goods or services of the same specification, quality, and price as that contained in the master contract with the lead agency. The bill provides that no vendor will be required to extend bid prices to participating contracting units in a cooperative pricing system unless so specified in the bids.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill may result in marginal cost savings for the State colleges and universities. Under the bill, the increased public bid threshold for certain contracts not involving workers paid in accordance with the "New Jersey Prevailing Wage Act" may lead to State colleges and universities advertising for less contracts than would otherwise be the case under current law. The extent to which the State colleges and universities would experience workload reductions due to the increased bid threshold is unknown. Therefore, the OLS cannot estimate the amount of any resulting cost savings.

State colleges and universities may experience similar, marginal cost savings due to the bill's expansion of the subject matter exemptions to the requirement for public advertising and bidding. The OLS determines the savings resulting from the bill would largely be realized in the form of reduced staff time and resources being dedicated to the public advertising and bidding process. Due to the lack of detailed information concerning the costs associated with the public advertising of bids for a contract or agreement for the performance of any work or the furnishing or hiring of any materials or supplies exempted by the bill, the OLS cannot estimate the amount of cost savings that may be realized.

The bill's provision permitting the governing board of a public institution of higher education to establish a cooperative pricing system may generate marginal cost savings for participating public institutions of higher education. While these provisions of the bill would continue to subject lead agencies, with respect to executing a master contract for a particular good or service, to all applicable State contracting and procurement laws, any participating public institutions of higher education (other than a public institution of higher education acting as a lead agency) may realize marginal cost savings to the extent that those public institutions of higher education would not have to dedicate their own staff time and resources to executing a contract. The OLS notes that there is insufficient information available to estimate these cost savings.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).