

SENATE, No. 2603

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 8, 2024

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Provides awarding of contracts for professional services by State, county, municipal, and school district through competitive contracting process.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning certain State, county, municipal, and school
2 district contracts and amending and supplementing various parts
3 of the statutory law.

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

7
8 1. Section 4 of P.L.1954, c.48 (C.52:34-9) is amended to read
9 as follows:

10 4. Any such purchase, contract or agreement may be made,
11 negotiated or awarded pursuant to section 3 of this act when the
12 subject matter thereof consists of

13 (a) services to be performed by the contractor personally which
14 are **[(a) of a technical and professional nature, or (b)]** to be
15 performed under the supervision of the Director of the Division of
16 Purchase and Property and paid for on a time basis; or

17 (b) the purchase of perishable foods or subsistence supplies; or

18 (c) the lease of such office space, office machinery, specialized
19 equipment, buildings or real property as may be required for the
20 conduct of the State's business; or

21 (d) the acquisition of any real property by gift, grant, purchase
22 or any other lawful manner in the name of and for the use of the
23 State for the purpose of the administration of the State's business in
24 accordance with appropriations made therefor when moneys are
25 required for the acquisition; or

26 (e) supplies or services as to which the bid prices after
27 advertising therefor are not reasonable or have not been
28 independently arrived at in open competition; provided, that no
29 negotiated purchase, contract or agreement may be entered into
30 under this paragraph after the rejection of all bids received unless
31 (a) notification of the intention to negotiate and reasonable
32 opportunity to negotiate shall have been given by the Director of
33 the Division of Purchase and Property to each responsible bidder,
34 (b) the negotiated price is lower than the lowest rejected bid price
35 of a responsible bidder, and (c) such negotiated price is the lowest
36 negotiated price offered by any responsible supplier.

37 (cf: P.L.1954, c.48, s.4)

38
39 2. (New section) a. Any contract for services to be performed
40 by a contractor personally which are of a technical and professional
41 nature, other than a contract for architectural, engineering, and land
42 surveying services awarded pursuant to P.L.1997, c.399 (C.52:34-
43 9.1 et seq.), that is to be awarded by a State agency shall be publicly
44 announced prior to being awarded and contracts for these services
45 shall be negotiated on the basis of demonstrated competence and
46 qualifications for the type of technical and professional service
47 required and at fair and reasonable compensation and awarded

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

Matter underlined thus is new matter.

1 pursuant to a competitive contracting process in the manner
2 provided by this section.

3 b. A professional firm that wishes to be qualified to provide
4 technical and professional services to a State agency seeking to
5 negotiate a contract or agreement for the performance of those
6 services shall file with the agency a current statement of
7 qualifications and supporting data. The statement may be filed at
8 any time during a calendar year, and a \$100 fee shall be remitted to
9 the State Treasurer each time a statement is filed. The content of
10 any such statement shall conform to such regulations with respect
11 thereto as the State Treasurer, in accordance with the
12 "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et
13 seq.), shall promulgate. No statement that shall have been filed
14 more than two years prior to the publication of an advertisement
15 pursuant to this section shall be deemed to be a current statement
16 with respect to qualifications of the firm.

17 c. Notwithstanding the provisions of any other law to the
18 contrary, a contract or agreement with an agency for the
19 procurement of technical and professional services shall be publicly
20 advertised prior to the solicitation of proposals or expressions of
21 interest from interested firms. To the extent consistent with the
22 purposes and provisions of this section, the advertisement shall
23 conform to the requirements applicable under subsections (a) and
24 (b) of section 7 of P.L.1954, c.48 (C.52:34-12) or may be publicly
25 advertised through electronic means. The advertisement shall
26 include a statement of the criteria by which the agency seeking to
27 procure those services shall evaluate the qualifications of
28 professional firms and determine the order of preference to be used
29 in designating the firms most highly qualified to perform the
30 services. In addition, the advertisement shall include notice that
31 professional firms wishing to be considered for selection as a
32 potential provider of such services in connection with a proposed
33 project must have submitted to the agency a current statement of
34 qualifications and supporting data as provided in this section.

35 d. For each proposed contract, an agency shall evaluate current
36 statements of qualifications and supporting data on file with the
37 agency. The agency may solicit proposals or expressions of interest
38 unique to the specific contract that would in narrative form outline
39 concepts and methods of approach to the contract. The agency shall
40 select, in order of preference, based upon the criteria included in the
41 advertisement required by this section, at least three professional
42 firms deemed to be the most highly qualified to provide the services
43 required, except that the agency may select fewer professional firms
44 if fewer such firms responded to the solicitation or meet the
45 qualifications required for the project.

46 e. An agency which intends or expects to make, negotiate, or
47 award a contract or agreement for the procurement of technical and
48 professional services shall, before publishing an advertisement of

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1 notice with respect to any such contract or agreement, have
2 adopted by regulation and have promulgated, in accordance with the
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
4 seq.), the criteria by which it shall make, with respect to any such
5 contract or agreement, the selection of qualified firms as prescribed
6 by this section.

7 f. Once the top three or more ranked firms have been
8 identified, each firm, at the request of the agency, shall submit a fee
9 proposal. The firms shall not be told of their ranking position at
10 that time. Using the three fee proposals to provide a general
11 guideline, an agency shall negotiate a contract with the most
12 qualified professional firm at compensation which the agency
13 determines to be fair and reasonable to the State of New Jersey. In
14 making this determination, the agency shall take into account the
15 estimated value of the services to be rendered and the scope,
16 complexity, and professional nature thereof. Should the agency be
17 unable to negotiate a satisfactory contract with the professional firm
18 considered to be the most qualified at a fee the agency determines
19 to be fair and reasonable, negotiations with that professional firm
20 shall be formally terminated. The agency shall then undertake
21 negotiations with the second most qualified professional firm.
22 Failing accord with the second most qualified professional firm, the
23 agency shall formally terminate negotiations. The agency shall then
24 undertake negotiations with the third most qualified professional
25 firm. Should the agency be unable to negotiate a satisfactory
26 contract with any of the selected professional firms, it shall select
27 additional professional firms in order of their competence and
28 qualifications and it shall continue negotiations in accordance with
29 this section until an agreement is reached.

30 g. Nothing in this section shall preclude a State agency from
31 using procurement processes other than those prescribed herein if
32 those processes are required by the federal government or if an
33 emergency has been declared by the chief executive officer of the
34 agency.

35 h. As used in this section,

36 "State agency" or "agency" means any of the principal
37 departments in the Executive Branch of the State Government, and
38 any division, board, bureau, office, commission or other
39 instrumentality within or created by such department, the
40 Legislature of the State and any office, board, bureau or
41 commission within or created by the Legislative Branch, and any
42 independent State authority, commission, instrumentality or agency;
43 and

44 "Professional firm" means any individual, firm, partnership,
45 corporation, association, or other legal entity permitted by law to
46 provide technical and professional services to this State.

47

48 3. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to

1 read as follows:

2 5. Any contract the amount of which exceeds the bid threshold,
3 may be negotiated and awarded by the governing body without
4 public advertising for bids and bidding therefor and shall be
5 awarded by resolution of the governing body if:

6 (1) The subject matter thereof consists of:

7 (a) (i) **Professional services.** The governing body shall in each
8 instance state supporting reasons for its action in the resolution
9 awarding each contract and shall forthwith cause to be printed once,
10 in the official newspaper, a brief notice stating the nature, duration,
11 service and amount of the contract, and that the resolution and
12 contract are on file and available for public inspection in the office
13 of the clerk of the county or municipality, or, in the case of a
14 contracting unit created by more than one county or municipality, of
15 the counties or municipalities creating the contracting unit; or (ii) **]**
16 **Extraordinary unspecifiable services.** The application of this
17 exception shall be construed narrowly in favor of open competitive
18 bidding, whenever possible, and the Division of Local Government
19 Services is authorized to adopt and promulgate rules and regulations
20 after consultation with the Commissioner of Education limiting the
21 use of this exception in accordance with the intention herein
22 expressed. The governing body shall in each instance state
23 supporting reasons for its action in the resolution awarding each
24 contract and shall forthwith cause to be printed, in the manner set
25 forth in subsection (1) (a) (i) of this section, a brief notice of the
26 award of the contract;

27 (b) The doing of any work by employees of the contracting unit;

28 (c) The printing of legal briefs, records, and appendices to be
29 used in any legal proceeding in which the contracting unit may be a
30 party;

31 (d) The furnishing of a tax map or maps for the contracting unit;

32 (e) The purchase of perishable foods as a subsistence supply;

33 (f) The supplying of any product or the rendering of any service
34 by a public utility, which is subject to the jurisdiction of the Board
35 of Public Utilities or the Federal Energy Regulatory Commission or
36 its successor, in accordance with tariffs and schedules of charges
37 made, charged or exacted, filed with the board or commission;

38 (g) The acquisition, subject to prior approval of the Attorney
39 General, of special equipment for confidential investigation;

40 (h) The printing of bonds and documents necessary to the
41 issuance and sale thereof by a contracting unit;

42 (i) Equipment repair service if in the nature of an extraordinary
43 unspecifiable service and necessary parts furnished in connection
44 with the service, which exception shall be in accordance with the
45 requirements for extraordinary unspecifiable services;

46 (j) The publishing of legal notices in newspapers as required by
47 law;

48 (k) The acquisition of artifacts or other items of unique intrinsic,

- 1 artistic or historical character;
- 2 (l) Those goods and services necessary or required to prepare
3 and conduct an election;
- 4 (m) Insurance, including the purchase of insurance coverage and
5 consultant services, which exception shall be in accordance with the
6 requirements for extraordinary unspecifiable services;
- 7 (n) The doing of any work by persons with disabilities
8 employed by a sheltered workshop;
- 9 (o) The provision of any goods or services including those of a
10 commercial nature, attendant upon the operation of a restaurant by
11 any nonprofit, duly incorporated, historical society at or on any
12 historical preservation site;
- 13 (p) (Deleted by amendment, P.L.1999, c.440.)
- 14 (q) Library and educational goods and services;
- 15 (r) (Deleted by amendment, P.L.2005, c.212).
- 16 (s) The marketing of recyclable materials recovered through a
17 recycling program, or the marketing of any product intentionally
18 produced or derived from solid waste received at a resource
19 recovery facility or recovered through a resource recovery program,
20 including, but not limited to, refuse-derived fuel, compost materials,
21 methane gas, and other similar products;
- 22 (t) (Deleted by amendment, P.L.1999, c.440.)
- 23 (u) Contracting unit towing and storage contracts, provided that
24 all of the contracts shall be pursuant to reasonable non-exclusionary
25 and non-discriminatory terms and conditions, which may include
26 the provision of the services on a rotating basis, at the rates and
27 charges set by the municipality pursuant to section 1 of P.L.1979,
28 c.101 (C.40:48-2.49). All contracting unit towing and storage
29 contracts for services to be provided at rates and charges other than
30 those established pursuant to the terms of this paragraph shall only
31 be awarded to the lowest responsible bidder in accordance with the
32 provisions of the "Local Public Contracts Law," P.L.1971, c.198
33 (C.40A:11-1 et seq.) and without regard for the value of the
34 contract therefor;
- 35 (v) The purchase of steam or electricity from, or the rendering
36 of services directly related to the purchase of steam or electricity
37 from a qualifying small power production facility or a qualifying
38 cogeneration facility as defined pursuant to 16 U.S.C. s.796;
- 39 (w) The purchase of electricity or administrative or dispatching
40 services directly related to the transmission of purchased electricity
41 by a contracting unit engaged in the generation of electricity;
- 42 (x) The printing of municipal ordinances or other services
43 necessarily incurred in connection with the revision and
44 codification of municipal ordinances;
- 45 (y) An agreement for the purchase of an equitable interest in a
46 water supply facility or for the provision of water supply services
47 entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
48 an agreement entered into pursuant to N.J.S.40A:31-1 et al., so long

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- 1 as the agreement is entered into no later than six months after the
2 effective date of P.L.1993, c.381;
- 3 (z) A contract for the provision of water supply services entered
4 into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);
- 5 (aa) The cooperative marketing of recyclable materials recovered
6 through a recycling program;
- 7 (bb) A contract for the provision of wastewater treatment
8 services entered into pursuant to P.L.1995, c.216 (C.58:27-19 et
9 al.);
- 10 (cc) Expenses for travel and conferences;
- 11 (dd) The provision or performance of goods or services for the
12 support or maintenance of proprietary computer hardware and
13 software, except that this provision shall not be utilized to acquire
14 or upgrade non-proprietary hardware or to acquire or update non-
15 proprietary software;
- 16 (ee) The management or operation of an airport owned by the
17 contracting unit pursuant to R.S.40:8-1 et seq.;
- 18 (ff) Purchases of goods and services at rates set by the Universal
19 Service Fund administered by the Federal Communications
20 Commission;
- 21 (gg) A contract for the provision of water supply services or
22 wastewater treatment services entered into pursuant to section 2 of
23 P.L.2002, c.47 (C.40A:11-5.1), or the designing, financing,
24 construction, operation, or maintenance, or any combination
25 thereof, of a water supply facility as defined in subsection (16) of
26 section 15 of P.L.1971, c.198 (C.40A:11-15) or a wastewater
27 treatment system as defined in subsection (19) of section 15 of
28 P.L.1971, c.198 (C.40A:11-15), or any component part or parts
29 thereof, including a water filtration system as defined in subsection
30 (16) of section 15 of P.L.1971, c.198 (C.40A:11-15); or
- 31 (hh) The purchase of electricity generated from a power
32 production facility that is fueled by methane gas extracted from a
33 landfill in the county of the contracting unit.
- 34 (2) It is to be made or entered into with the United States of
35 America, the State of New Jersey, county, or municipality, or any
36 board, body, officer, agency, or authority thereof, or any other state
37 or subdivision thereof.
- 38 (3) Bids have been advertised pursuant to section 4 of P.L.1971,
39 c.198 (C.40A:11-4) on two occasions and (a) no bids have been
40 received on both occasions in response to the advertisement, or (b)
41 the governing body has rejected the bids on two occasions because
42 it has determined that they are not reasonable as to price, on the
43 basis of cost estimates prepared for or by the contracting agent prior
44 to the advertising therefor, or have not been independently arrived
45 at in open competition, or (c) on one occasion no bids were received
46 pursuant to (a) and on one occasion all bids were rejected pursuant
47 to (b), in whatever sequence; a contract may then be negotiated and
48 may be awarded upon adoption of a resolution by a two-thirds

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1 affirmative vote of the authorized membership of the governing
2 body authorizing the contract; provided, however, that:

3 (i) A reasonable effort is first made by the contracting agent to
4 determine that the same or equivalent goods or services, at a cost
5 which is lower than the negotiated price, are not available from an
6 agency or authority of the United States, the State of New Jersey or
7 of the county in which the contracting unit is located, or any
8 municipality in close proximity to the contracting unit;

9 (ii) The terms, conditions, restrictions, and specifications set
10 forth in the negotiated contract are not substantially different from
11 those which were the subject of competitive bidding pursuant to
12 section 4 of P.L.1971, c.198 (C.40A:11-4); and

13 (iii) Any minor amendment or modification of any of the terms,
14 conditions, restrictions, and specifications, which were the subject
15 of competitive bidding pursuant to section 4 of P.L.1971, c.198
16 (C.40A:11-4), shall be stated in the resolution awarding the
17 contract; provided further, however, that if on the second occasion
18 the bids received are rejected as unreasonable as to price, the
19 contracting agent shall notify each responsible bidder submitting
20 bids on the second occasion of its intention to negotiate, and afford
21 each bidder a reasonable opportunity to negotiate, but the governing
22 body shall not award the contract unless the negotiated price is
23 lower than the lowest rejected bid price submitted on the second
24 occasion by a responsible bidder, is the lowest negotiated price
25 offered by any responsible vendor, and is a reasonable price for
26 goods or services.

27 Whenever a contracting unit shall determine that a bid was not
28 arrived at independently in open competition pursuant to subsection
29 (3) of this section it shall thereupon notify the county prosecutor of
30 the county in which the contracting unit is located and the Attorney
31 General of the facts upon which its determination is based, and
32 when appropriate, it may institute appropriate proceedings in any
33 State or federal court of competent jurisdiction for a violation of
34 any State or federal antitrust law or laws relating to the unlawful
35 restraint of trade.

36 (4) The contracting unit has solicited and received at least three
37 quotations on materials, supplies, or equipment for which a State
38 contract has been issued pursuant to section 12 of P.L.1971, c.198
39 (C.40A:11-12), and the lowest responsible quotation is at least 10
40 percent less than the price the contracting unit would be charged for
41 the identical materials, supplies, or equipment, in the same
42 quantities, under the State contract. A contract entered into
43 pursuant to this subsection may be awarded only upon adoption of a
44 resolution by the affirmative vote of two-thirds of the full
45 membership of the governing body of the contracting unit at a
46 meeting thereof authorizing the contract. A copy of the purchase
47 order relating to the contract, the requisition for purchase order, if
48 applicable, and documentation identifying the price of the materials,

1 supplies or equipment under the State contract and the State
2 contract number shall be filed with the director within five working
3 days of the award of the contract by the contracting unit. The
4 director shall notify the contracting unit of receipt of the material
5 and shall make the material available to the State Treasurer. The
6 contracting unit shall make available to the director upon request
7 any other documents relating to the solicitation and award of the
8 contract, including, but not limited to, quotations, requests for
9 quotations, and resolutions. The director periodically shall review
10 material submitted by contracting units to determine the impact of
11 the contracts on local contracting and shall consult with the State
12 Treasurer on the impact of the contracts on the State procurement
13 process. The director may, after consultation with the State
14 Treasurer, adopt rules in accordance with the "Administrative
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to limit the
16 use of this subsection, after considering the impact of contracts
17 awarded under this subsection on State and local contracting, or
18 after considering the extent to which the award of contracts
19 pursuant to this subsection is consistent with and in furtherance of
20 the purposes of the public contracting laws.

21 (5) Notwithstanding any provision of law, rule, or regulation to
22 the contrary, the subject matter consists of the combined collection
23 and marketing, or the cooperative combined collection and
24 marketing of recycled material recovered through a recycling
25 program, or any product intentionally produced or derived from
26 solid waste received at a resource recovery facility or recovered
27 through a resource recovery program including, but not limited to,
28 refuse-derived fuel, compost materials, methane gas, and other
29 similar products, provided that in lieu of engaging in public
30 advertising for bids and the bidding therefor, the contracting unit
31 shall, prior to commencing the procurement process, submit for
32 approval to the Director of the Division of Local Government
33 Services, a written detailed description of the process to be
34 followed in securing the services. Within 30 days after receipt of
35 the written description the director shall, if the director finds that
36 the process provides for fair competition and integrity in the
37 negotiation process, approve, in writing, the description submitted
38 by the contracting unit. If the director finds that the process does
39 not provide for fair competition and integrity in the negotiation
40 process, the director shall advise the contracting unit of the
41 deficiencies that must be remedied. If the director fails to respond
42 in writing to the contracting unit within 30 days, the procurement
43 process as described shall be deemed approved. As used in this
44 section, "collection" means the physical removal of recyclable
45 materials from curbside or any other location selected by the
46 contracting unit.

47 (6) Notwithstanding any provision of law, rule, or regulation to
48 the contrary, the contract is for the provision of electricity by a

1 contracting unit engaged in the distribution of electricity for retail
2 sale, for the provision of wholesale electricity by a municipal
3 shared services energy authority as defined pursuant to section 3 of
4 P.L.2015, c.129 (C.40A:66-3), or for the provision of administrative
5 or dispatching services related to the transmission of electricity,
6 provided that in lieu of engaging in public advertising for bids and
7 the bidding therefor, the contracting unit shall, prior to commencing
8 the procurement process, submit for approval to the Director of the
9 Division of Local Government Services, a written detailed
10 description of the process to be followed in securing these services.
11 The process shall be designed in a way that is appropriate to and
12 commensurate with industry practices, and the integrity of the
13 government contracting process. Within 30 days after receipt of the
14 written description, the director shall, if the director finds that the
15 process provides for fair competition and integrity in the
16 negotiation process, approve, in writing, the description submitted
17 by the contracting unit. If the director finds that the process does
18 not provide for fair competition and integrity in the negotiation
19 process, the director shall advise the contracting unit of the
20 deficiencies that must be remedied. If the director fails to respond
21 in writing to the contracting unit within 30 days, the procurement
22 process, as submitted to the director pursuant to this section, shall
23 be deemed approved.

24 (cf: P.L.2017, c.131, s.174)

25

26 4. Section 1 of P.L.1999, c.440 (C.40A:11-4.1) is amended to
27 read as follows:

28 1. Notwithstanding the provisions of any law, rule, or
29 regulation to the contrary, competitive contracting may be used, and
30 shall be used in the case of contracts for professional services under
31 paragraph s. of subsection b. of this section, by local contracting
32 units in lieu of public bidding for procurement of specialized goods
33 and services the price of which exceeds the bid threshold, for the
34 following purposes:

35 a. The purchase or licensing of proprietary computer software
36 designed for contracting unit purposes, which may include
37 hardware intended for use with the proprietary software. This
38 subsection shall not be utilized for the purpose of acquiring general
39 purpose computer hardware or software;

40 b. The hiring of a for-profit entity or a not-for-profit entity
41 incorporated under Title 15A of the New Jersey Statutes for the
42 purpose of:

43 (1) the operation and management of a wastewater treatment
44 system, a stormwater management system, or a water supply or
45 distribution facility of the type described in subsection (37) of
46 section 15 of P.L.1971, c.198 (C.40A:11-15), provided that
47 competitive contracting shall not be used as a means of awarding

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1 contracts pursuant to P.L.1985, c.37 (C.58:26-1 et al.) and
2 P.L.1985, c.72 (C.58:27-1 et al.);

3 (2) the operation, management or administration of recreation or
4 social service facilities or programs, which shall not include the
5 administration of benefits under the Work First New Jersey
6 program established pursuant to P.L.1997, c.38 (C.44:10-55 et
7 seq.), or under General Assistance;

8 (3) the operation, management or administration of data
9 processing services; or

10 (4) the operation and management of a county hospital pursuant
11 to the "Local Hospital Authority Law," P.L.2006, c.46
12 (C.30:9-23.15 et al.);

13 c. (Deleted by amendment, P.L.2009, c.4)

14 d. Homemaker--home health services;

15 e. Laboratory testing services;

16 f. Emergency medical services;

17 g. Contracted food services;

18 h. Performance of patient care services by contracted medical
19 staff at county hospitals, correctional facilities and long-term care
20 facilities;

21 i. At the option of the governing body of the contracting unit,
22 any good or service that is exempt from bidding pursuant to section
23 5 of P.L.1971, c.198 (C.40A:11-5);

24 j. Concessions;

25 k. The operation, management or administration of other
26 services, with the approval of the Director of the Division of Local
27 Government Services;

28 l. Maintenance, custodial, and groundskeeping services;

29 m. Consulting services;

30 n. Emergency medical billing services;

31 o. Property appraisal services;

32 p. Reassessment or revaluation services;

33 q. Grant writing services;

34 r. Animal control services;

35 s. Private on-site inspection agency services, as may be
36 authorized by rules and regulations adopted by the Department of
37 Community Affairs; and

38 t. Professional services, other than contracts for architectural,
39 engineering, or land surveying services which shall be awarded
40 pursuant to section 5 of P.L. , c. (C.) (pending before the
41 Legislature as this bill).

42 Any purpose included herein shall not be considered by a
43 contracting unit as an extraordinary unspecifiable service pursuant
44 to subparagraph (ii) of paragraph (a) of subsection (1) of section 5
45 of P.L.1971, c.198 (C.40A:11-5).

1 As used in this section, "stormwater management system" means
2 the same as that term is defined in section 3 of P.L.2019, c.42
3 (C.40A:26B-3).
4 (cf: P.L.2022, c.139, s.3)

5
6 5. (New section) a. It is the policy of this State that contracts
7 to be awarded by a contracting unit, as defined in section 2 of
8 P.L.1971, c.198 (C.40A:11-2), for architectural, engineering, and
9 land surveying services shall be publicly announced prior to being
10 awarded and that contracts for these services shall be negotiated on
11 the basis of demonstrated competence and qualifications for the
12 type of professional services required and at fair and reasonable
13 compensation.

14 b. As used in this section:

15 "Compensation" means the basis of payment by a contracting
16 unit for professional architectural, engineering, or land surveying
17 services;

18 "Professional firm" means any individual, firm, partnership,
19 corporation, association, or other legal entity permitted by law to
20 provide professional architectural, engineering, or land surveying
21 services in this State; and

22 "Professional architectural, engineering, and land surveying
23 services" means those services, including planning, environmental,
24 and construction inspection services required for the development
25 and construction of projects, within the scope of the practice of
26 architecture, professional engineering, or professional land
27 surveying as defined by the laws of this State or those performed by
28 an architect, professional engineer, or professional land surveyor in
29 connection with his professional employment practice.

30 c. A professional firm which wishes to be considered qualified
31 to provide professional architectural, engineering, or land surveying
32 services to a contracting unit seeking to negotiate a contract or
33 agreement for the performance of such services shall file or shall
34 have filed with the contracting unit a current statement of
35 qualifications and supporting data. Such a statement may be filed at
36 any time during a calendar year, and a \$100 fee shall be remitted to
37 the contracting unit by the professional firm at the time each
38 statement is filed. No statement which shall have been filed more
39 than two years prior to the publication of an advertisement pursuant
40 to the provisions of this section shall be deemed to be a current
41 statement with respect to qualification of the firm which shall have
42 filed the statement to provide professional architectural,
43 engineering, or land surveying services under any contract or
44 agreement of which notice is given through that advertisement.

45 A statement of qualifications and supporting data filed with a
46 contracting unit under this subsection shall be a public record for all
47 purposes of P.L.1963, c.73 (C.47:1A-1 et seq.).

1 d. Notwithstanding any other provision of the Local Public
2 Contracts Law, P.L.1971, c.198 (C.40A:11-1 et seq.) to the
3 contrary, a contract or agreement with a contracting unit for the
4 procurement of professional architectural, engineering, or land
5 surveying services shall be publicly advertised prior to the
6 solicitation of proposals or expressions of interest from interested
7 firms. To the extent consistent with the purposes and provisions of
8 this section, the advertisement shall conform to the requirements
9 applicable to publicly bid contracts or may be publicly advertised
10 through electronic means. The advertisement shall include a
11 statement of the criteria by which the contracting unit seeking to
12 procure those professional services shall evaluate the technical
13 qualifications of professional firms and determine the order of
14 preference to be used in designating the firms most highly qualified
15 to perform the services; this statement shall either set forth
16 explicitly and in full the terms of those criteria or identify them by
17 reference to the regulation or regulations in which those criteria
18 shall have been promulgated as required by this section. In
19 addition, the advertisement shall include notice that professional
20 firms wishing to be considered for selection as a potential provider
21 of such services in connection with a proposed project must have
22 submitted to the contracting unit a current statement of
23 qualifications and supporting data as prescribed in this section.

24 e. In the procurement of architectural, engineering, and land
25 surveying services, no contracting unit shall make, negotiate, or
26 award a contract or agreement for the performance of such services
27 with or to any professional firm which has not filed with the
28 contracting unit a current statement of qualifications and supporting
29 data as prescribed by this section.

30 f. For each proposed project, a contracting unit shall evaluate
31 current statements of qualifications and supporting data on file with
32 the contracting unit. The contracting unit may solicit proposals or
33 expressions of interest unique to the specific project which would in
34 narrative form outline design concepts and proposed methods of
35 approach to the assignment. The contracting unit shall select, in
36 order of preference, based upon the criteria included in the
37 advertisement required by this section, at least three professional
38 firms deemed to be the most highly qualified to provide the services
39 required, except that the contracting unit may select fewer
40 professional firms if fewer such firms responded to the solicitation
41 or meet the qualifications required for the project.

42 g. A contracting unit which intends or expects to make,
43 negotiate, or award a contract or agreement for the procurement of
44 professional architectural, engineering, or land surveying services
45 shall, before publishing an advertisement of notice with respect to
46 any such contract or agreement, have adopted the criteria by which
47 it shall with respect to any such contract or agreement make the
48 selection of qualified firms as prescribed by this section.

1 h. Once the top three or more ranked firms have been
2 identified, each firm, at the request of the contracting unit, shall
3 submit a fee proposal. The firms shall not be told of their ranking
4 position at that time. Using the three fee proposals to provide a
5 general guideline, a contracting unit shall negotiate a contract with
6 the most technically qualified professional firm for architectural,
7 engineering, or land surveying services at compensation which the
8 contracting unit determines to be fair and reasonable to the
9 contracting unit. In making this determination, the contracting unit
10 shall take into account the estimated value of the services to be
11 rendered and the scope, complexity, and professional nature thereof.
12 Should the contracting unit be unable to negotiate a satisfactory
13 contract with the professional firm considered to be the most
14 qualified at a fee the contracting unit determines to be fair and
15 reasonable, negotiations with that professional firm shall be
16 formally terminated. The contracting unit shall then undertake
17 negotiations with the second most qualified professional firm.
18 Failing accord with the second most qualified professional firm, the
19 contracting unit shall formally terminate negotiations. The
20 contracting unit shall then undertake negotiations with the third
21 most qualified professional firm. Should the contracting unit be
22 unable to negotiate a satisfactory contract with any of the selected
23 professional firms, it shall select additional professional firms in
24 order of their competence and qualifications and it shall continue
25 negotiations in accordance with this section until an agreement is
26 reached.

27 i. Notwithstanding the provisions of any other law to the
28 contrary, the provisions of this section shall only apply to contracts
29 for architectural, engineering, and land surveying services in excess
30 of the bid threshold established by law.

31 j. Nothing in this section shall preclude a contracting unit from
32 using procurement processes other than those prescribed herein if
33 those processes have been approved by the federal government or
34 other State statute or if an emergency has been declared by the chief
35 executive officer of the contracting unit.

36 k. The Director of Division of Local Government Services in
37 the Department of Community Affairs shall adopt, in accordance
38 with the "Administrative Procedure Act," P.L.1968, c.410
39 (C.52:14B-1 et seq.), such rules and regulations as be necessary to
40 implement the provisions of this section.

41

42 6. N.J.S.18A:18A-5 is amended to read as follows:

43 18A:18A-5. Exceptions to requirement for advertising. Any
44 contract, the amount of which exceeds the bid threshold, shall be
45 negotiated and awarded by the board of education by resolution at a
46 public meeting without public advertising for bids and bidding
47 therefor if

48 a. The subject matter thereof consists of:

- 1 (1) **Professional services.** The board of education shall in each
2 instance state supporting reasons for its action in the resolution
3 awarding each contract and shall forthwith cause to be printed once,
4 in an official newspaper, a brief notice stating the nature, duration,
5 service and amount of the contract, and that the resolution and
6 contract are on file and available for public inspection in the office
7 of the board of education **Deleted by amendment, P.L. _____,**
8 **c. _____ (pending before the Legislature as this bill);**
- 9 (2) Extraordinary unspecifiable services which cannot
10 reasonably be described by written specifications. The application
11 of this exception as to extraordinary unspecifiable services shall be
12 construed narrowly in favor of open competitive bidding where
13 possible and the Director of the Division of Local Government
14 Services in the Department of Community Affairs is authorized to
15 establish rules and regulations after consultation with the
16 Commissioner of Education limiting its use in accordance with the
17 intention herein expressed; and the board of education shall in each
18 instance state supporting reasons for its action in the resolution
19 awarding the contract for extraordinary unspecifiable services and
20 shall forthwith cause to be printed, in the manner set forth in
21 paragraph (1) of this subsection, a brief notice of the award of such
22 contract;
- 23 (3) The doing of any work by employees of the board of
24 education;
- 25 (4) The printing of all legal notices; and legal briefs, records and
26 appendices to be used in any legal proceeding in which the board of
27 education may be a party;
- 28 (5) Library and educational goods and services;
- 29 (6) Food supplies, including food supplies for home economics
30 classes, when purchased pursuant to rules and regulations of the
31 State board and in accordance with the provisions of
32 N.J.S.18A:18A-6;
- 33 (7) The supplying of any product or the rendering of any service
34 by a public utility, which is subject to the jurisdiction of the Board
35 of Public Utilities, in accordance with the tariffs and schedules of
36 charges made, charged and exacted, filed with said board;
- 37 (8) The printing of bonds and documents necessary to the
38 issuance and sale thereof by a board of education;
- 39 (9) Equipment repair service if in the nature of an extraordinary
40 unspecifiable service and necessary parts furnished in connection
41 with such services, which exception shall be in accordance with the
42 requirements for extraordinary unspecifiable services;
- 43 (10) Insurance, including the purchase of insurance coverage and
44 consultant services, which exception shall be in accordance with the
45 requirements for extraordinary unspecifiable services;
- 46 (11) Publishing of legal notices in newspapers as required by
47 law;

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- 1 (12) The acquisition of artifacts or other items of unique
2 intrinsic, artistic or historic character;
- 3 (13) Those goods and services necessary or required to prepare
4 and conduct an election;
- 5 (14) (Deleted by amendment, P.L.1999, c.440)
- 6 (15) (Deleted by amendment, P.L.1999, c.270)
- 7 (16) (Deleted by amendment, P.L.1999, c.440)
- 8 (17) The doing of any work by persons with disabilities
9 employed by a sheltered workshop;
- 10 (18) Expenses for travel and conferences;
- 11 (19) The provision or performance of goods or services for the
12 support or maintenance of proprietary computer hardware and
13 software, except that this provision shall not be utilized to acquire
14 or upgrade non-proprietary hardware or acquire or update non-
15 proprietary software;
- 16 (20) Purchases of goods and services at rates set by the Universal
17 Service Fund administered by the Federal Communications
18 Commission;
- 19 (21) Goods and services paid with funds that: are raised by or
20 collected from students to support the purchase of student-oriented
21 items or materials, such as yearbooks, school photographs or
22 portraits, class rings, and a class gift; and are deposited in school or
23 student activity accounts; and require no budget appropriation from
24 the board of education;
- 25 (22) Food services provided by food service management
26 companies pursuant to procedures established by the New Jersey
27 Department of Agriculture, Bureau of Child Nutrition Programs;
- 28 (23) Vending machines providing food or drink.
- 29 b. It is to be made or entered into with the United States of
30 America, the State of New Jersey, county or municipality or any
31 board, body, officer, agency, authority or board of education or any
32 other state or subdivision thereof.
- 33 c. Bids have been advertised pursuant to N.J.S.18A:18A-4 on
34 two occasions and (1) no bids have been received on both occasions
35 in response to the advertisement, or (2) the board of education has
36 rejected such bids on two occasions because it has determined that
37 they are not reasonable as to price, on the basis of cost estimates
38 prepared for or by the board of education prior to the advertising
39 therefor, or have not been independently arrived at in open
40 competition, or (3) on one occasion no bids were received pursuant
41 to (1) and on one occasion all bids were rejected pursuant to (2), in
42 whatever sequence; any such contract may then be negotiated and
43 may be awarded upon adoption of a resolution by a two-thirds
44 affirmative vote of the authorized membership of the board of
45 education authorizing such a contract; provided, however, that:
- 46 (a) A reasonable effort is first made by the board of education to
47 determine that the same or equivalent goods or services, at a cost
48 which is lower than the negotiated price, are not available from an

1 agency or authority of the United States, the State of New Jersey or
2 of the county in which the board of education is located, or any
3 municipality in close proximity to the board of education;

4 (b) The terms, conditions, restrictions and specifications set
5 forth in the negotiated contract are not substantially different from
6 those which were the subject of competitive bidding pursuant to
7 N.J.S.18A:18A-4; and

8 (c) Any minor amendment or modification of any of the terms,
9 conditions, restrictions and specifications which were the subject of
10 competitive bidding pursuant to N.J.S.18A:18A-4 shall be stated in
11 the resolution awarding the contract; provided further, however,
12 that if on the second occasion the bids received are rejected as
13 unreasonable as to price, the board of education shall notify each
14 responsible bidder submitting bids on the second occasion of its
15 intention to negotiate, and afford each bidder a reasonable
16 opportunity to negotiate, but the board of education shall not award
17 such contract unless the negotiated price is lower than the lowest
18 rejected bid price submitted on the second occasion by a
19 responsible bidder, is the lowest negotiated price offered by any
20 responsible vendor, and is a reasonable price for such goods or
21 services.

22 d. Whenever a board of education shall determine that a bid
23 was not arrived at independently in open competition pursuant to
24 subsection c.(2) of N.J.S.18A:18A-5, it shall thereupon notify the
25 county prosecutor of the county in which the board of education is
26 located and the Attorney General of the facts upon which its
27 determination is based, and when appropriate, it may institute
28 appropriate proceedings in any State or federal court of competent
29 jurisdiction for a violation of any State or federal antitrust law or
30 laws relating to the unlawful restraint of trade.

31 e. The board of education has solicited and received at least
32 three quotations on materials, supplies or equipment for which a
33 State contract has been issued pursuant to N.J.S.18A:18A-10, and
34 the lowest responsible quotation is at least 10% less than the price
35 the board would be charged for the identical materials, supplies or
36 equipment, in the same quantities, under the State contract. Any
37 such contract or agreement entered into pursuant to subsection c. or
38 subsection e. may be made, negotiated or awarded only upon
39 adoption of a resolution by the affirmative vote of two-thirds of the
40 full membership of the board of education at a meeting thereof
41 authorizing such a contract or agreement. The purchase order
42 relating to any such contract shall include a notation that the
43 material, supplies, or equipment was purchased at least 10% below
44 the State contract price. The board of education shall make
45 available to the Director of the Division of Local Government
46 Services in the Department of Community Affairs, upon request,
47 any documents relating to the solicitation and award of the contract,

1 including, but not limited to, quotations, requests for quotations,
2 and resolutions.

3 (cf: P.L.2007, c.42, s.2)

4

5 7. Section 45 of P.L.1999, c.440 (C.18A:18A-4.1) is amended
6 to read as follows:

7 45. Notwithstanding the provisions of any law, rule or regulation
8 to the contrary, competitive contracting may be used, and shall be
9 used in the case of contracts for professional services under
10 paragraph l. of subsection b. of this section, by boards of education
11 in lieu of public bidding for procurement of specialized goods and
12 services the price of which exceeds the bid threshold, for the
13 following purposes:

14 a. The purchase or licensing of proprietary computer software
15 designed for board of education purposes, which may include
16 hardware intended for use with the proprietary software. This
17 subsection shall not be utilized for the purpose of acquiring general
18 purpose computer hardware or software;

19 b. The hiring of a for-profit entity or a not-for-profit entity
20 incorporated under Title 15A of the New Jersey Statutes for the
21 purpose of:

22 (1) the operation, management or administration of recreation or
23 social service facilities or programs; or

24 (2) the operation, management or administration of data
25 processing services;

26 c. Services performed by an organization engaged in providing
27 energy conservation education and training services to train
28 employees of a board of education to reduce consumption of
29 energy;

30 d. Telecommunications transmission or switching services that
31 are not part of a tariff or schedule of charges filed with the Board of
32 Public Utilities;

33 e. The purchase of specialized machinery or equipment of a
34 technical nature, or servicing thereof, which will not reasonably
35 permit the drawing of specifications;

36 f. Food services provided by food service management
37 companies when not part of programs administered by the New
38 Jersey Department of Agriculture, Bureau of Child Nutrition
39 Programs;

40 g. Driver education courses provided by licensed driver
41 education schools;

42 h. At the option of the board of education, any good or service
43 that is exempt from bidding pursuant to N.J.S.18A:18A-5;

44 i. Laboratory testing services;

45 j. Concessions;

46 k. The operation, management or administration of other
47 services, with the approval of the Division of Local Government
48 Services in the Department of Community Affairs; and

1 1. Professional services, other than contracts for architectural,
2 engineering, or land surveying services which shall be awarded
3 pursuant to section 8 of P.L. , c. (C.) (pending before the
4 Legislature as this bill).

5 Any purpose included herein shall not be considered by a board
6 of education as an extraordinary unspecifiable service pursuant to
7 paragraph (2) of subsection a. of N.J.S.18A:18A-5.
8 (cf: P.L.2009, c.4, s.2)

9
10 8. (New section) a. It is the policy of this State that contracts
11 to be awarded by a board of education, as defined in
12 N.J.S.18A:18A-2, for architectural, engineering, and land surveying
13 services shall be publicly announced prior to being awarded and
14 that contracts for these services shall be negotiated on the basis of
15 demonstrated competence and qualifications for the type of
16 professional services required and at fair and reasonable
17 compensation.

18 b. As used in this section:

19 "Compensation" means the basis of payment by a board of
20 education for professional architectural, engineering, or land
21 surveying services;

22 "Professional firm" means any individual, firm, partnership,
23 corporation, association, or other legal entity permitted by law to
24 provide professional architectural, engineering, or land surveying
25 services in this State; and

26 "Professional architectural, engineering, and land surveying
27 services" means those services, including planning, environmental,
28 and construction inspection services required for the development
29 and construction of projects, within the scope of the practice of
30 architecture, professional engineering, or professional land
31 surveying as defined by the laws of this State or those performed by
32 an architect, professional engineer, or professional land surveyor in
33 connection with his professional employment practice.

34 c. A professional firm which wishes to be considered qualified
35 to provide professional architectural, engineering, or land surveying
36 services to a board of education seeking to negotiate a contract or
37 agreement for the performance of such services shall file or shall
38 have filed with the board of education a current statement of
39 qualifications and supporting data. Such a statement may be filed at
40 any time during a calendar year, and a \$100 fee shall be remitted to
41 the board of education by the professional firm at the time each
42 statement is filed. No statement which shall have been filed more
43 than two years prior to the publication of an advertisement pursuant
44 to the provisions of this section shall be deemed to be a current
45 statement with respect to qualification of the firm which shall have
46 filed the statement to provide professional architectural,
47 engineering, or land surveying services under any contract or
48 agreement of which notice is given through that advertisement.

1 A statement of qualifications and supporting data filed with a
2 board of education under this subsection shall be a public record for
3 all purposes of P.L.1963, c.73 (C.47:1A-1 et seq.).

4 d. Notwithstanding any other provision of the Public School
5 Contracts Law, N.J.S.18A:18A-1 et seq., to the contrary, a contract
6 or agreement with an board of education for the procurement of
7 professional architectural, engineering, or land surveying services
8 shall be publicly advertised prior to the solicitation of proposals or
9 expressions of interest from interested firms. To the extent
10 consistent with the purposes and provisions of this section, the
11 advertisement shall conform to the requirements applicable to
12 publicly bid contracts or may be publicly advertised through
13 electronic means. The advertisement shall include a statement of
14 the criteria by which the board of education seeking to procure
15 those professional services shall evaluate the technical
16 qualifications of professional firms and determine the order of
17 preference to be used in designating the firms most highly qualified
18 to perform the services; this statement shall either set forth
19 explicitly and in full the terms of those criteria or identify them by
20 reference to the regulation or regulations in which those criteria
21 shall have been promulgated as required by this section. In
22 addition, the advertisement shall include notice that professional
23 firms wishing to be considered for selection as a potential provider
24 of such services in connection with a proposed project must have
25 submitted to the board of education a current statement of
26 qualifications and supporting data as prescribed in this section.

27 e. In the procurement of architectural, engineering, and land
28 surveying services, no board of education shall make, negotiate, or
29 award a contract or agreement for the performance of such services
30 with or to any professional firm which has not filed with the board
31 of education a current statement of qualifications and supporting
32 data as prescribed by this section.

33 f. For each proposed project, a board of education shall
34 evaluate current statements of qualifications and supporting data on
35 file with the board of education. The board of education may solicit
36 proposals or expressions of interest unique to the specific project
37 which would in narrative form outline design concepts and
38 proposed methods of approach to the assignment. The board of
39 education shall select, in order of preference, based upon the
40 criteria included in the advertisement required by this section, at
41 least three professional firms deemed to be the most highly
42 qualified to provide the services required, except that the board of
43 education may select fewer professional firms if fewer such firms
44 responded to the solicitation or meet the qualifications required for
45 the project.

46 g. A board of education which intends or expects to make,
47 negotiate, or award a contract or agreement for the procurement of
48 professional architectural, engineering, or land surveying services

1 shall, before publishing an advertisement of notice with respect to
2 any such contract or agreement, have adopted the criteria by which
3 it shall with respect to any such contract or agreement make the
4 selection of qualified firms as prescribed by this section.

5 h. Once the top three or more ranked firms have been
6 identified, each firm, at the request of the board of education, shall
7 submit a fee proposal. The firms shall not be told of their ranking
8 position at that time. Using the three fee proposals to provide a
9 general guideline, a board of education shall negotiate a contract
10 with the most technically qualified professional firm for
11 architectural, engineering, or land surveying services at
12 compensation which the board of education determines to be fair
13 and reasonable to the board of education. In making this
14 determination, the board of education shall take into account the
15 estimated value of the services to be rendered and the scope,
16 complexity, and professional nature thereof. Should the board of
17 education be unable to negotiate a satisfactory contract with the
18 professional firm considered to be the most qualified at a fee the
19 board of education determines to be fair and reasonable,
20 negotiations with that professional firm shall be formally
21 terminated. The board of education shall then undertake
22 negotiations with the second most qualified professional firm.
23 Failing accord with the second most qualified professional firm, the
24 board of education shall formally terminate negotiations. The board
25 of education shall then undertake negotiations with the third most
26 qualified professional firm. Should the board of education be
27 unable to negotiate a satisfactory contract with any of the selected
28 professional firms, it shall select additional professional firms in
29 order of their competence and qualifications and it shall continue
30 negotiations in accordance with this section until an agreement is
31 reached.

32 i. Notwithstanding the provisions of any other law to the
33 contrary, the provisions of this section shall only apply to contracts
34 for architectural, engineering, and land surveying services in excess
35 of the bid threshold established by law.

36 j. Nothing in this section shall preclude a board of education
37 from using procurement processes other than those prescribed
38 herein if those processes have been approved by the federal
39 government or other State statute or if an emergency has been
40 declared by the chief executive officer of the board.

41 k. The Commissioner of Education shall adopt, in accordance
42 with the "Administrative Procedure Act," P.L.1968, c.410
43 (C.52:14B-1 et seq.), such rules and regulations as be necessary to
44 implement the provisions of this section.

45
46 9. (New section) Notwithstanding the provisions of any other
47 law to the contrary, a State agency shall have discretion to continue
48 a professional services contract for legal services beyond its date of

1 expiration without following a competitive contracting process to
2 enter into a new contract when the expertise of that particular
3 provider of legal services is essential for the completion of pending
4 litigation, the completion of any construction contract, or the need
5 to properly complete other legal services, and any potential change
6 in the provider would be detrimental to the public interest.

7
8 10. (New section) Notwithstanding the provisions of any other
9 law to the contrary, a unit of local government shall have discretion
10 to continue a professional services contract for legal services
11 beyond its date of expiration without following a competitive
12 contracting process to enter into a new contract when the expertise
13 of that particular provider of legal services is essential for the
14 completion of pending litigation, the completion of any construction
15 contract, or the need to properly complete other legal services, and
16 any potential change in the provider would be detrimental to the
17 public interest.

18
19 11. (New section) Notwithstanding the provisions of any other
20 law to the contrary, a board of education shall have discretion to
21 continue a professional services contract for legal services beyond
22 its date of expiration without following a competitive contracting
23 process to enter into a new contract when the expertise of that
24 particular provider of legal services is essential for the completion
25 of pending litigation, the completion of any construction contract,
26 or the need to properly complete other legal services, and any
27 potential change in the provider would be detrimental to the public
28 interest.

29
30 12. This act shall take effect immediately.

31
32
33 STATEMENT

34
35 Under existing law, contracts for professional and technical
36 services to be awarded by State agencies, including independent
37 authorities, or by counties, municipalities, and school districts may
38 be negotiated and awarded without being publicly advertising for
39 bids. This bill would provide, instead, that these contracts would be
40 subject to a competitive bidding process.

41 Contracts for architectural, engineering, and land surveying
42 services of local governments and school boards will be awarded
43 pursuant to a competitive contracting process on the basis of
44 demonstrated competence and qualifications that is similar to the
45 process for awarding of such contracts by State agencies.

46 The bill allows the continuation of a professional services
47 contract for legal services beyond the contract's expiration date
48 when the expertise of that particular provider of legal services is

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1 essential for the completion of pending litigation, any construction
2 contract, or other legal services, and any potential change in the
3 provider would be detrimental to the public interest.

4 The bill also provides that school board contracts for school
5 photographs or portraits, like similar items that are paid with funds
6 raised by or collected from students such as yearbooks and class
7 rings, will not be required to be publicly advertised for bids.