

SENATE, No. 9

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED DECEMBER 11, 2006

Sponsored by:
Senator JOHN H. ADLER
District 6 (Camden)

SYNOPSIS

Eliminates various mandates imposed on public school districts.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain mandates imposed on public school
2 districts and amending, supplementing and repealing various
3 sections of the New Jersey Statutes.

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

7
8 1. Section 1 of P.L.1982, c.163 (C.18A:17-46) is amended to
9 read as follows:

10 1. Any school employee observing or having direct knowledge
11 from a participant or victim of an act of violence shall, in
12 accordance with standards established by the commissioner, file a
13 report describing the incident to the school principal in a manner
14 prescribed by the commissioner, and copy of same shall be
15 forwarded to the district superintendent.

16 The principal shall notify the district superintendent of schools
17 of the action taken regarding the incident. Annually, at a public
18 hearing **[in October]**, the superintendent of schools shall report to
19 the board of education all acts of violence and vandalism which
20 occurred during the previous school year. **[The proceedings of the**
21 **public hearing shall be transcribed and kept on file by the board of**
22 **education, which shall make the transcript available to the public.]**
23 Verification of the annual report on violence and vandalism shall be
24 part of the State's monitoring of the school district, and the State
25 Board of Education shall adopt regulations that impose a penalty on
26 a school employee who knowingly falsifies the report. A board of
27 education shall provide ongoing staff training, in cooperation with
28 the Department of Education, in fulfilling the reporting
29 requirements pursuant to this section. The majority representative
30 of the school employees shall have access monthly to the number
31 and disposition of all reported acts of school violence and
32 vandalism.

33 **[The board of education shall file the transcript of the public**
34 **hearing with the Division of Student Services in the Department of**
35 **Education by November 1. The division shall review the transcript**
36 **to ensure compliance with this section of law. The costs of staff**
37 **training and transcribing the public hearing and printing the**
38 **transcript shall be paid by the Department of Education.]**

39 (cf: P.L.2001, c.299)

40
41 2. N.J.S.18A:18A-5 is amended to read as follows:

42 18A:18A-5. Exceptions to requirement for advertising. Any
43 contract, the amount of which exceeds the bid threshold, shall be
44 negotiated and awarded by the board of education by resolution at a
45 public meeting without public advertising for bids and bidding

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 therefor if

2 a. The subject matter thereof consists of:

3 (1) Professional services. The board of education shall in each
4 instance state supporting reasons for its action in the resolution
5 awarding each contract and shall forthwith cause to be printed once,
6 in an official newspaper, a brief notice stating the nature, duration,
7 service and amount of the contract, and that the resolution and
8 contract are on file and available for public inspection in the office
9 of the board of education;

10 (2) Extraordinary unspecifiable services which cannot reasonably
11 be described by written specifications. The application of this
12 exception as to extraordinary unspecifiable services shall be
13 construed narrowly in favor of open competitive bidding where
14 possible and the Director of the Division of Local Government
15 Services in the Department of Community Affairs is authorized to
16 establish rules and regulations after consultation with the
17 Commissioner of Education limiting its use in accordance with the
18 intention herein expressed; and the board of education shall in each
19 instance state supporting reasons for its action in the resolution
20 awarding the contract for extraordinary unspecifiable services and
21 shall forthwith cause to be printed, in the manner set forth in
22 paragraph (1) of this subsection, a brief notice of the award of such
23 contract;

24 (3) The doing of any work by employees of the board of
25 education;

26 (4) The printing of all legal notices; and legal briefs, records and
27 appendices to be used in any legal proceeding in which the board of
28 education may be a party;

29 (5) Library and educational goods and services;

30 (6) Food supplies, including food supplies for home economics
31 classes, when purchased pursuant to rules and regulations of the
32 State board and in accordance with the provisions of
33 N.J.S.18A:18A-6;

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

38 (8) The printing of bonds and documents necessary to the
39 issuance and sale thereof by a board of education;

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

44 (10) Insurance, including the purchase of insurance coverage and
45 consultant services, which exception shall be in accordance with the
46 requirements for extraordinary unspecifiable services;

47 (11) Publishing of legal notices in newspapers as required by
48 law;

S9 ADLER

- 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, class rings, and a class gift;
22 and are deposited in school or student activity accounts; and require
23 no budget appropriation from the board of education;
 - 24 (22) Food services provided by food service management
25 companies pursuant to procedures established by the New Jersey
26 Department of Agriculture, Bureau of Child Nutrition Programs;
 - 27 (23) Vending machines providing food or drink.
- 28 b. It is to be made or entered into with the United States of
29 America, the State of New Jersey, county or municipality or any
30 board, body, officer, agency, authority or board of education or any
31 other state or subdivision thereof.
- 32 c. Bids have been advertised pursuant to N.J.S.18A:18A-4 on
33 two occasions and (1) no bids have been received on both occasions
34 in response to the advertisement, or (2) the board of education has
35 rejected such bids on two occasions because it has determined that
36 they are not reasonable as to price, on the basis of cost estimates
37 prepared for or by the board of education prior to the advertising
38 therefor, or have not been independently arrived at in open
39 competition, or (3) on one occasion no bids were received pursuant
40 to (1) and on one occasion all bids were rejected pursuant to (2), in
41 whatever sequence; any such contract may then be negotiated and
42 may be awarded upon adoption of a resolution by a two-thirds
43 affirmative vote of the authorized membership of the board of
44 education authorizing such a contract; provided, however, that:
- 45 (a) A reasonable effort is first made by the board of education to
46 determine that the same or equivalent goods or services, at a cost
47 which is lower than the negotiated price, are not available from an
48 agency or authority of the United States, the State of New Jersey or

1 of the county in which the board of education is located, or any
2 municipality in close proximity to the board of education;

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

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

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

30 e. The board of education has solicited and received at least
31 three quotations on materials, supplies or equipment for which a
32 State contract has been issued pursuant to N.J.S.18A:18A-10, and
33 the lowest responsible quotation is at least 10% less than the price
34 the board would be charged for the identical materials, supplies or
35 equipment, in the same quantities, under the State contract. Any
36 such contract or agreement entered into pursuant to subsection d. or
37 subsection e. may be made, negotiated or awarded only upon
38 adoption of a resolution by the affirmative vote of two-thirds of the
39 full membership of the board of education at a meeting thereof
40 authorizing such a contract or agreement. [A copy of the purchase
41 order relating to any such contract, the requisition for purchase
42 order, if applicable, and documentation identifying the price of the
43 materials, supplies or equipment under the State contract and the
44 State contract number shall be filed with the Director of the
45 Division of Local Government Services in the Department of
46 Community Affairs within five working days of the award of any
47 such contract by the board of education. The director shall notify
48 the board of education of receipt of the material and shall make the

1 material available to the State Treasurer.] The purchase order
2 relating to any such contract shall include a notation that the
3 material, supplies, or equipment was purchased at least 10% below
4 the State contract price. The board of education shall make
5 available to the **[director]** Director of the Division of Local
6 Government Services in the Department of Community Affairs,
7 upon request, any **[other]** documents relating to the solicitation and
8 award of the contract, including, but not limited to, quotations,
9 requests for quotations, and resolutions.

10 (cf: P.L.1999, c.440, s.53)

11

12 3. N.J.S.18A:19-3 is amended to read as follows:

13 18A:19-3. All claims and demands, **[exceeding \$150.00 in**
14 **amount]** that equal or exceed 15% of the bid threshold amount
15 established pursuant to N.J.S.18A:18A-3, except for payrolls and
16 debt service, shall be verified by affidavit, or by a signed
17 declaration in writing, contained therein or annexed thereto, to the
18 effect that the same are correct in all particulars, that the articles
19 have been furnished or the services rendered as stated therein and
20 that no bonus has been given or received on account thereof.

21 (cf: P.L.1991, c.37, s.1)

22

23 4. Section 2 of P.L.2001, c.298 (C.18A:36-5.1) is amended to
24 read as follows:

25 2. The week beginning with the third Monday in October of
26 each year is designated as "School Violence Awareness Week" in
27 the State of New Jersey. School districts shall observe this week by
28 organizing activities to prevent school violence including, but not
29 limited to, age-appropriate opportunities for student discussion on
30 conflict resolution, issues of student diversity, and tolerance. Law
31 enforcement personnel shall be invited to join members of the
32 teaching staff in the discussions. Programs shall also be provided
33 for school board employees that are designed to help them
34 recognize warning signs of school violence and to instruct them on
35 recommended conduct during an incident of school violence. **[The**
36 **public hearing on violence and vandalism, required pursuant to**
37 **section 1 of P.L.1982, c.163 (C.18A:17-46) as amended by**
38 **P.L.2001, c.299, shall be held during this week.]** The Department
39 of Education shall provide guidelines and information to boards of
40 education for use in planning the activities in observance of the
41 week and such funds as are necessary to pay the costs of the
42 required activities and programs.

43 (cf: P.L.2001, c.298, s.2)

44

45 5. (New section) A school district may conduct a course of
46 exercises or instruction in accordance with the core curriculum
47 content standards to observe holidays, including, but not limited to,

1 Lincoln's Birthday, Washington's Birthday, Memorial Day,
2 Columbus Day, Veterans Day, Thanksgiving Day, Arbor Day, and
3 Commodore Barry Day.

4

5 6. The following sections are repealed:

6 N.J.S.18A:36-8;

7 N.J.S.18A:36-9;

8 N.J.S.18A:36-11;

9 N.J.S.18A:36-12; and

10 N.J.S.18A:36-13.

11

12 7. This act shall take effect on July 1 next following the date of
13 enactment.

14

15

16

STATEMENT

17

18 The bill eliminates the requirement for specific reporting to the
19 Director of the Division of Local Government Services in those
20 instances in which a board of education has determined not to take
21 advantage of a State contract for the purchase of an item because
22 the board can purchase that item at a price which is at least 10%
23 below that available under the State contract. Rather, the bill
24 provides that the purchase order relating to the contract must
25 include a notation that the item was purchased at least 10% below
26 the State contract price. Also, the board will make available to the
27 director, upon his request, any documents relating to the solicitation
28 and award of the contract.

29 The bill also revises the threshold for the affidavit requirement
30 on purchases by school districts from \$150 to an amount equal to
31 15% or more of the bid threshold, which is the amount at which a
32 school district is required under current law to solicit quotations
33 prior to entering into contracts.

34 The bill eliminates the transcript requirement for the annual
35 public hearing for violence and vandalism that a district is required
36 to hold under N.J.S.A.18A:17-46. The cost of a transcript can run
37 from several hundred dollars to several thousand, depending on the
38 length of the hearing. Meeting minutes can accurately verify that a
39 hearing took place, identify the names of speakers, and capture
40 discussion at the hearing without this additional expense.

41 The bill also eliminates the requirement that a district hold its
42 annual hearing on violence and vandalism during the third week in
43 October. Although the third week in October is School Violence
44 Week, compliance with the statute may require a board which does
45 not regularly meet at that time to hold a special meeting. The bill
46 gives districts discretion to set hearing dates that fit their calendars.

47 This bill eliminates the requirement that school districts conduct
48 exercises or instruction to commemorate two specific holidays:

S9 ADLER

8

1 Arbor Day and Commodore Barry Day. The bill also eliminates the
2 requirement that school districts hold exercises on the last school
3 day preceding various patriotic holidays. Rather than mandating
4 activities to commemorate holidays, this bill would permit schools
5 districts to conduct exercises and instruction to observe holidays.
6 These provisions concerning curriculum are designed to provide
7 school districts more flexibility and to recognize the fact that the
8 core curriculum content standards should drive the provision of
9 instruction in schools.