

SENATE, No. 2572

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 15, 2020

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Concerns requirements for local purchasing agents.

CURRENT VERSION OF TEXT

As introduced.



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

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 9 of P.L.1971, c.198 (C.40A:11-9) is amended to
8 read as follows:

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

37 b. The Director of the Division of Local Government Services,
38 after consultation with the Commissioner of Education, shall
39 establish criteria to qualify individuals who have completed
40 appropriate training and possess such purchasing experience as
41 deemed necessary to serve as a purchasing agent, and, when
42 determined to be necessary by the director, have passed an
43 examination administered by the director pursuant to this section.
44 The criteria established by the director shall include, but are not
45 limited to, the following:

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 (1) is a citizen of the United States;
- 2 (2) is of good moral character;
- 3 (3) is a high school graduate or equivalent;
- 4 (4) has at least two years of higher education, and two years of
- 5 full time governmental experience performing duties relative to
- 6 those of public procurement provided, however **[, that]** :
- 7 (a) additional years of experience may be substituted for years
- 8 of higher education, on a one to one basis, and
- 9 (b) on and after the effective date of P.L. , c. (C.)
- 10 (pending before the Legislature as this bill), the criteria shall
- 11 require at least four years of full time governmental experience
- 12 performing duties relative to those of public procurement under the
- 13 direct supervision of a purchasing agent;
- 14 (5) has successfully received certificates indicating satisfactory
- 15 completion of a series of training courses in public procurement as
- 16 determined by the director and provided by either the Division of
- 17 Local Government Services, or, with the approval of the director,
- 18 by a county college or Rutgers, The State University of New Jersey,
- 19 all under the supervision of instructors who meet criteria
- 20 established by the director . On and after the effective date of
- 21 P.L. , c. (C.) (pending before the Legislature as this bill), the
- 22 series of training courses in public procurement shall comprise, at a
- 23 minimum, three 30-hour courses in the principles of public
- 24 purchasing and one 26-hour course in municipal finance
- 25 administration for purchasing professionals;
- 26 (6) has submitted completed application forms, including proof
- 27 of education and experience, as set forth in this subsection,
- 28 accompanied by a fee in the amount of \$150 payable to the State
- 29 Treasurer, to the Director of the Division of Local Government
- 30 Services at least 30 days prior to the administration of a State
- 31 examination;
- 32 (7) has successfully passed a State examination for a qualified
- 33 purchasing agent certificate. The director shall hold examinations
- 34 semi-annually or at such times as the director may deem
- 35 appropriate. An individual shall be eligible to take the State
- 36 examination for a qualified purchasing agent certificate without
- 37 having taken the courses required pursuant to paragraph (5) of this
- 38 subsection if the individual has been certified by the division as a
- 39 certified municipal finance officer, a certified county finance
- 40 officer, or a certified county purchasing officer.
- 41 The director shall issue a qualified purchasing agent certificate to
- 42 an individual who passes the examination upon payment to the
- 43 director of a fee of \$25 which shall be payable to the State
- 44 Treasurer.
- 45 c. The criteria established by the director to authorize
- 46 purchasing agents, pursuant to subsection b. of this section, shall
- 47 include, but are not limited to, completion of a course in green
- 48 product purchasing, as established by the director pursuant to

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

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

19 (2) In the event that an individual holding a qualified purchasing
20 agent certificate allows the certificate to lapse by failing to renew
21 the certificate, the individual shall be required to apply to take the
22 qualifying examination required pursuant to subsection b. of this
23 section and pay a fee as determined by the director, except that
24 when an individual applies within six months of the expiration of
25 the certificate, the application may be made in the same manner as
26 renewal and except that such application may be made in the same
27 manner as a renewal within 12 months of the expiration of the
28 certificate if the director determines that either of the following
29 circumstances prevents a certificate holder from earning the
30 required continuing education units within six months of the
31 expiration of the certificate:

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

35 (b) a medical event or condition.

36 e. (1) An individual who obtained a qualified purchasing
37 agent certificate prior to enactment of P.L.2009, c.166 (C.40A:11-
38 9a et al.) shall be exempt from taking the State qualifying
39 examination, but shall adhere to all requirements for renewal
40 pursuant to subsection d. of this section. If such a qualified
41 purchasing agent certificate expires due to the failure of the holder
42 to renew the certificate as prescribed in subsection d. of this section,
43 that individual shall be required to pass the qualifying examination
44 as provided pursuant to subsection b. of this section in order to be
45 issued a new qualified purchasing agent certificate.

46 (2) An individual who has been certified by the Department of
47 Education as a school business administrator and has performed
48 duties relative to public procurement for at least three years shall be

1 exempt from taking the courses required pursuant to paragraph (5)
2 of subsection b. of this section and the state qualifying examination,
3 and upon application to the director and the payment of the fee
4 imposed pursuant to subsection b. of this section, shall be issued a
5 qualified purchasing agent certificate.

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

16 g. Following the appointment of a purchasing agent for a
17 contracting unit pursuant to subsection a. of this section, if the
18 person appointed no longer performs such duties, the governing
19 body or chief executive officer, as appropriate to the form of
20 government, may appoint, for a period not to exceed one year
21 commencing from the date of the vacancy, a person who does not
22 possess a qualified purchasing agent certificate to serve as a
23 temporary purchasing agent. Any person so appointed may, with
24 the approval of the director, be reappointed as a temporary
25 purchasing agent for a maximum of one additional year following
26 the end of the first temporary appointment. No contracting unit
27 shall employ a temporary purchasing agent for more than two
28 consecutive years.

29 h. The director may revoke or suspend a qualified purchasing
30 agent certificate for dishonest practices or willful or intentional
31 failure, neglect, or refusal to comply with the laws relating to
32 procurement, or for other good cause. The governing body,
33 together with the chief executive officer of any contracting unit, or
34 a board of education, may request the director to review the
35 behavior or practices of a person holding a qualified purchasing
36 agent certificate. Prior to taking any adverse action against a
37 person, the director or the director's designee shall convene a
38 hearing, upon due notice, affording the person an opportunity to be
39 heard. If the qualified purchasing agent certificate held by a person
40 serving as a purchasing agent is revoked, the director shall order
41 that person to no longer perform the duties of purchasing agent, and
42 the person shall not be eligible to serve as a purchasing agent or to
43 make application for recertification for a period of five years from
44 the date of revocation.

45 i. The director may adopt and promulgate rules and regulations
46 to effectuate the purposes of P.L.1971, c.198. Notwithstanding any
47 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
48 any such regulations shall be effective immediately upon filing with

1 the Office of Administrative Law and shall be effective for a period
2 not to exceed 365 days and may thereafter be amended, adopted or
3 readopted by the director in accordance with the requirements of
4 P.L.1968, c.410. In order to better manage the workload of
5 implementing the provisions of P.L.1971, c.198, the director may
6 establish a transition process for administering an examination for
7 individuals serving as purchasing agents on the effective date of
8 P.L.1971, c.198, issuing and renewing qualified purchasing agent
9 certificates to eligible individuals, prescribing a schedule by which
10 such certificates will be issued and renewed, and such other matters
11 as the director determines to be necessary to the implementation of
12 P.L.1971, c.198.

13 (cf: P.L.2015, c.95, s.45)

14
15 2. This act shall take effect immediately.
16
17

18 STATEMENT

19
20 This bill would allow a contracting unit under the “Local Public
21 Contracts Law,” P.L. 1971, c.198 (C.40A:11-1 et seq.), to designate
22 its municipal finance officer, county finance officer, or county
23 purchasing officer to serve as a purchasing agent only if the person
24 is a certified municipal finance officer, a certified county finance
25 officer, or a certified county purchasing officer and the person will
26 perform the actual day to day work of a purchasing agent. The bill
27 also provides that the work experience required for certification as a
28 qualified purchasing agent must be performed under the direct
29 supervision of a purchasing agent. Additionally, the bill would
30 specify the content and length of the courses an individual must
31 complete to earn a qualified purchasing agent certificate.

32 Under the Local Public Contracts Law, a contracting unit that
33 designates a holder of a qualified purchasing agent certificate as its
34 purchasing agent may award contracts without public advertising at
35 a higher threshold amount than a contracting unit that designates as
36 its purchasing agent a person who does not hold a qualified
37 purchasing agent certificate.